United States Court of Appeals

for the Second Circuit

APPENDIX

75-1197

IN THE

United States Court of Appeals

FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

—against—

NORMAN RUBINSON, EDGAR REYNOLDS, WILLIAM CHESTER, LAWRENCE LEVINE,

Defendants-Appellants.

ON APPEAL FROM A JUDGMENT OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

JOINT APPENDIX

Vol. III—Pages 725a to 1,067a

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Q From whom?

A From Mr. Rubinson.

Q Was anyone else present at that conversation, or do you recall anyone else being present at that conversation?

A I don't recall if anybody else was present, but there could have been other people present. I don't know if Feiffer was there or not. He told me he had a conversation with Jerry Haskell and that he had told Haskell about --

MR. ROBSON: If your Honor please, is this in response to the question if anybody else was present? I don't know what he is talking about now.

THE WITNESS: I didn't hear what he said.

MR. ROBSON: I object to the question and move to have it stricken.

THE COURT: The question is whether what you are now telling us is in response to the question of who was present or anyone else was present.

THE WITNESS: The answer is I don't know if any -- I am not sure if Mr. Feiffer was with us or not at the time. I recall a conversation with Mr. Rubinson.

MR. ROBSON: If your Honor please, his statement is he does not know or he is not sure, and that is the end of his answer.

THE COURT: All right.

Q Now, would you tell us in this conversation what you can recall of what Mr. Rubinson said to you and what you said to him?

A He told me that he had a conversation with Jerry Haskell. He told Jerry Haskell about the company that Chester owned called National Ventures, and that Haskell was interested in continuing the conversation and exploring it with his partner, and so forth, and whether or not he was -- whether Stern-Haskell would be interested in making the arrangement with National Ventures, and that we were going to arrange to have a meeting -- I don't know if Jerry had been in town, Haskell, and had gone back or was on his way back into Miami, but we were all going to meet in a day or two and have the meeting with regard to the possible merger or purchase or whatever was going to happen.

Q Did there come a time when that meeting occurred?

A Yes.

Q Do you remember where that meeting was?

A That meeting was at the offices of Blank Furniture on Biscayne Boulevard in Miami.

Q Prior to that meeting, did you have any other discussions with anyone?

A Yes, sir, I had some discussions with Haskell in New York. I don't remember if it was New York or Miami, but

I think it was in New York.

Q All right. Where in New York were those discussions?

A I don't know. It could have been in my house, it could have been in a restaurant, it could have been anyplace.

Q When did those discussions occur?

A I recall a meeting with Haskell probably two or three or four days or maybe a week before the meeting in Miami where he inquired --

Q All right now, was anyone else present at the meeting with Mr. Haskell?

A I don't know. I don't remember if anybody else was there or not, but Rubinson could have been there, Feiffer could have been there --

MR. ROBSON: I object to who "could have been there." The answer is he doesn't know, but I don't know if the witness is prepared to say that or not.

THE COURT: If you cannot recall who was there, say "I cannot recall."

MR. ROBSON: He doesn't say he couldn't recall. He said he doesn't know whether anybody else was there.

THE COURT: Are you telling us that you cannot recall or that as a matter of fact no one else was there?

THE WITNESS: I am not saying that as a matter of fact no one else was there. I am trying to say we had

several meetings, the three of us. I don't remember if the three of us were together at any one specific meeting or sometimes one or two of us were together, because we didn't have a pattern of -- we all lived together, and we all had dinner together, but we did not have dinner together every night, and we did not all talk at one time, and I cannot remember if two people were together at one time or three or four.

THE COURT: All right.

THE WITNESS: I just remember that we all met, and I remember the context of the arrangements, but I don't want to put somebody in at a meeting that wasn't at a meeting unless I can specifically remember them being at a meeting.

THE COURT: All right. Let's proceed.

Q In this discussion, could you tell us what you recall that Mr. Haskell said and that you said?

A Mr. Haskell asked me what did I think of National Ventures as a vehicle for him becoming a public company. I told him that in my opinion there were vehicles that were better that were around, that I thought that the capital structure was desirable, that the amount of shareholders was desirable. As a vehicle capital structure-wise it was desirable but there were better vehicles around that would be more suitable for him, and that the decision would have to be his, although I

did tell him that it would be a good idea to use a vehicle of this type, and that he would become public through a method such as this inasmuch as his company had a small net worth and they were just building their business up.

Q Well now, when you say method such as this, are you referring to something that was discussed in one of these discussions you described?

A No, I am talking about generally speaking, a method of where a smaller company doesn't go into a public offering but either backs into another public company or is acquired by a company or it merges with a company or goes into a shell or gets spun out of a company, any one of a series of different ways that a small company that doesn't want to go through the expense of a public offering becomes a public company.

Q Now, did you have any further discussion with Mr. Haskell at this time?

A No. I did not.

Q Prior to this meeting at Blank Furniture, did you have any other discussions with anyone on the subject of Stern-Haskell becoming a public company?

A Well, Chester and Rubinson and myself and Feiffer had discussions on Stern-Haskell.

Q When did these discussions occur?

A Around the same time. I don't recall what day.

Q And where did they occur?

A I recall a meeting in Miami with Chester, Rubinson, Feiffer and myself.

Q Where did that occur in Miami, if you recall?

A It could have been at Blank's office. I don't recall where the meeting was, but I remember us all having a conversation.

Q Was anyone else present besides the four people you named?

A There could have been, but I don't recall if anybody else was in on the conversation or not.

Q Could you tell us who said what as well as you can recall in that conversation?

A Chester told me about the company, about National Ventures.

Q What did he tell you?

A He told me how many shares were out, how many --

Q What did he tell you about the number of shares that were out? Try to tell us what he said.

MR. ANDREWS: I object to Mr. Wohl interrupting this witness as he is making his answers.

THE COURT: Yes, give the witness a chance to answer. Then when he doesn't complete the answer, or you think there is something else he might remember, ask him if he

remembers anything further about a particular subject.

Q All right, Mr. Stein, would you go on and tell us who said what at this conversation that you are describing.

A Bill Chester told me about the capital structure of the company, and the description of the company, as I best recall it, is that there was approximately 35 or 40 thousand, maybe 50,000 shares, in the hands of the public, and there was about 400,000 shares in total in National Ventures, and that it had been a public company for a long period of time. And that it was an intra-state deal and that it didn't have any assets at the time. That is about what I remember Chester describing the company to me.

Q Was anything else said at this meeting by anyone?

A I think that we all talked, but I remember specifically my own comments saying that I thought that the company, National Ventures, should either merge Stern-Haskell into it, acquire it, or that National Ventures should buy another company, and it should have a trading price in the pink sheets and be a trading stock before this deal was done, and I told Chester my feelings about that, and told Rubinson and Feiffer my feelings about it.

I said that the method that was being used in my opinion was not the proper way for this to be accomplished, and buying the shares of Stern-Haskell and distributing them was

not in accordance with what I believe to be an intelligent method.

We talked back and forth on the subject, and Chester said that he explored it, he is an attorney, he understood what you could do and what you could not do, and he more or less convinced Rubinson, Feiffer and myself that it was perfectly okay to do it this way.

I don't say that we were convinced when we left the meeting, but having relied on the fact that he had been the attorney for several public companies that I knew of, we thought it was okay.

* * *

Q Before you tell us that, can you tell us who was present when you learned this?

A Mr. Rubinson, Mr. Feiffer and myself.

Q Do you recall where it occurred?

A I think it occurred at the office of Blank Furniture or on the way out of Blank Furniture or on the way to where we were going.

Q Tell us who said what at that time.

A Mr. Rubinson told me that Hochen, Weitzman, Feiffer and Silver were going to own seventy, eighty thousand shares of stock, whatever the numbers came to and that he and I were going to be partners with them and I agreed.

Q Was there anything further in that conversation that you recall?

A No, I don't recall. I am just relating this as best I remember what the general conversation was.

Q Was anything said about whether these four individuals that you named would get any payment for this activity?

A We were going to be partners with them. They were going to get a percentage and we were going to get a percentage

of the stock.

Q Were specific percentages discussed in this conversation?

A They were going to get a few thousand shares of stock -- originally they were going to get a percentage and then eventually we were going to buy the stock from them or share in the proceeds with them. We did not have any specific plan at that particular meeting other than the fact that they owned the stock and we were going to be partners with them in the stock.

Q Which stock were you talking about that this point?

A The dividend stock. The Stern-Haskell stock.

Q Was anything said about anyone else's ownership of stock in this conversation?

A Chester owned the stock and when he sold the stock of National Ventures to these four people, he took an option back to buy the stock back from them and he would have an option to buy the stock back for a small amount of money. I think they paid $375 and he was going to buy it back for 500 or 600 or 700 dollars and he had an option to buy the stock back. That is the stock of National Ventures.

* * *

* * *

BY MR. WOHL:

Q During this period of time, that is, February and March of 1969, did you have any discussions concerning Mr. Feiffer's role,if any, in this transaction?

A Yes, I did.

Q With whom did you have these discussions?

A I had a discussion with Mr. Rubinson and then I had a discussion with Mr. Rubinson and with Mr. Feiffer.

Q When did the discussion with Mr. Rubinson occur?

A Some time around February. I am not sure what date.

Q Where was the discussion with Mr. Rubinson?

A Either New York or Miami, I am not sure. Some place when we were together.

Q What did you say and what did Mr. Rubinson say that you can recall in that conversation?

A Mr. Rubinson told me that Feiffer had approached him and said he wanted to be a partner with us in the stock that we had bought or that we were buying.

MR. ROBSON: I am sorry, wanted to be a partner with you in the stock which you had bought?

THE WITNESS: He wanted to be a partner with Rubinson and myself.

THE COURT: Mr. Stein, would you please sit back in the char first of all and would you throw your voice so we don't have to repeat for Mr. Robson every answer that you make.

Please throw your voice. He has a right to hear you and if you keep dropping your voice or talking in low tones, we have to have the reporter read every answer.

Please keep your voice up and throw your voice as I am doing.

Will you please do that?

THE WITNESS: Yes.

MR. ROBSON: Would the reporter read back the portion of the answer that he gave?

(Record read)

Q What stock is that?

A The stock of Stern-Haskell.

Q What else was said that you can recall in this conversation with Mr. Rubinson?

A He told me that Feiffer wanted to be partners with us, that he wanted to share on a three-way basis, that he didn't just want to own a few thousand shares like the other three people that had bought the stock, and he wanted to be

active with us in the distribution of the stock and he wanted to do everything that we did or everything that we would do in order to make it successful, and I agreed that we would let Feiffer participate with us and be a full partner in the proceeds of the stock, and that there was no objection on our part.

* * *

THE COURT: All right.

Q Did you have any discussions in February and March concerning the activities of Michael Gardner?

A Yes, we did.

Q Do you recall when those conversations occurred?

A I can't recall any specific or exact date. We had a conversation with Gardner, and we asked Gardner to make a market for the stock, and he agreed that he would make a market for the stock, and become the financial brokerage firm for the particular stock.

To describe that better is to say that the company had not gone public through a regular underwriting --

MR. ROBSON: I am only hearing every other word.

A The company had not gone public through a regular underwriting and it didn't have a brokerage house that was its sponsor, so we had a discussion with Gardner where he would be the sponsoring brokerage house for the Stern-Haskell stock, and that he would make a market and get dealers interested and do everything he would do in his normal course of being a broker to handle the stock.

Q Do you recall any discussion at that time of the specific activities that Mr. Gardner agreed to perform?

A Yes. Mr. Gardner said that he would be looking for acquisitions for the company, that he would get his own

retail customers interested in the stock, he would get other brokers interested in the stock that would be in the pink sheets and trade the stock, and that he would be generally helpful to the company in any future financing it needed, and that he would do whatever a broker would normlly do in any other stock that they were responsible for, that they would be trading.

Q Who was present at this discussion?

A There were one or two discussions and I don't know which came first, and I don't know if Feiffer originally told Gardner about the stock or I did, but at the one meeting that took place I believe that Mr.Rubinson, Mr. Feiffer and myself were in Gardner's office, and at that time he consented to put the stock into the sheets and to attempt to make a market for the stock and requested to make a purchase so that he would have a vested interest.

He wanted to buy some investment stock so that he would have a vested interest in the continuity of the stock appreciation over a period of time.

As I recall, we discussed this with Mr. Stern, Mr. Haskell, and they agreed that we were going to sell from the investment stock of the company to Michael Gardner, or to his company, 50,000 shares of stock for approximately what the book value of the company was.

Q Do you recall what that price was?

A I think it was ten cents a share, but I'm not sure.

Q Did you have any discussions with Mr. Gardner within a few weeks following these discussions that you just described?

A Yes, I did.

Q Were those in person or on the phone?

A Sometimes in person, sometimes on the telephone.

Q Do you recall anybody else being present at these discussions?

A I think that sometimes I visited his office with Mr. Feiffer alone, I think sometimes I visited his office with Mr. Rubinson, sometimes the three of us visited.

I can't recall whether or not the three of us were there at one time or I was there myself or the two of us were there.

I can only recall the general conversations of the years gone by.

Q Tell us what you can recall of who said what in these conversations that immediately followed the discussions that you described a few minutes ago.

A Well, Gardner wanted to own some investment stock and asked for the delivery of the investment stock,and I said that he would be getting it shortly, that the company

was going to issue it, and meantime I was inquiring from him as to what was happening in the market, what kind of activity, what he had been doing, and he kept saying that he was lining up people and that he would be getting the market going soon, and nothing was happening.

He wasn't generating any buying, he wasn't getting any dealers interested in the stock, he wasn't doing anything but just putting the stock in the sheets every day and nothing was happening.

Q So what happened next?

A Well, we discussed it.

Q Who?

A Rubinson, Feiffer, myself, and we said there is no sense in giving this fellow any investment stock because he is not doing anything, and so we just didn't give it to him and just-- the same way he was stalling around or not being able to perform--

MR. HIGGINS: I object to the characterization, stalling around.

THE WITNESS: I'm sorry, your Honor.

A Inasmuch as nothing was accomplished other than him being in the sheets every day, or maybe buying a small amount of stock, two, three, four or five hundred, or selling two, three, four or five hundred shares, we just never

really got anything going with him.

Q Did there come a time when you approached someone else in connection with the marketing of Stern-Haskell stock?

A Yes.

Q Who was that?

A I contacted Lockwood Securities.

Q Who did you speak to?

A I talked to Larry Levine.

Q Had you known Larry Levine before this particular call?

A Yes, I did.

Q Do you recall for how long a period you had known him?

A For some time, I don't know how long.

Q Do you recognize him in court today?

A Yes, I do.

MR. ANDREWS: That is Mr. Levine, isn't it?

THE WITNESS: Yes.

MR. ANDREWS: Identification conceded.

Q Did Mr. Levine tell you what his position was at Lockwood?

MR. ANDREWS: I would like to know if we are talking about the prior relationship or after his

disenchantment, so-called, with Mr. Gardner.

THE COURT: Maybe you ought to give the U. S. Attorney a chance to ask some questions on this matter and when you get up on cross-examination, Mr. Andrews, you can go into this.

Let's not have these interruptions as to time again. Give the U.S. Attorney a chance to bring it out.

Q Do you recall the question, Mr. Stein?

A No, I don't.

Q All right, I will repeat it.

A I think I do, but I would rather hear it again.

Q Okay.

My question to you is: Did Mr. Levine tell you what his position was at Lockwood & Company?

A Do you want to know at the time I came to talk to him about Stern-Haskell or prior to that?

Q If you could just tell us yes or no, whether he told you something on that subject, then we will go from there.

A I don't recall.

Q You don't remember whether he ever said anything on that subject?

A Yes. I recall --

MR. ANDREWS: Objection, he asked him and he

answered.

A I recall him saying something on the subject, but I am trying to fix the meeting.

Inasmuch as this gentleman, Mr. Andrews, raised the question, I am trying to be responsive both to your question and his statement.

MR. ANDREWS: Thank you, Mr. Stein.

THE COURT: Just a minute.

Mr. Witness, just try to concentrate on the question.

When I rule on an objection that has to do with law. Don't be so concerned about satisfying the lawyer who makes an objection. Try to answer the question, and we will handle the objections from the lawyers. Don't worry about that.

Read the last question, please, Mr. Reporter.

(Question read)

A I remember, I do remember, what he said on the subject.

Q Do you remember when he said it?

A I don't remember when he said it.

Q Can you give us an approximation or a period of time during which it occurred?

A Well, Mr. Levine either prior to the opening of

Lockwwod & Company, or when the company first opened, told me that he was the owner of Lockwood & Company,and had told me this from time to time during the course of our doing business.

Q Did there come a time when you spoke to Mr. Levine about Stern-Haskell?

A Yes.

Q When did that occur?

A Some time in March or April, I'm not sure what month it was.

Q In the first conversation with him on that subject, who was present?

A I think I was present myself, but I am not sure, somebody could have been with me. I think that Levine and I had a conversation.

Q Do you recall where the conversation occurred?

A Probably in his office, but I am not sure. It could have been in my apartment, it could have been at dinner, but I recall that we did have a conversation.

Q Tell us what you said and what Mr. Levine said about Stern-Haskell at that time.

A I told him that I was in possession of a block of stock together with Mr. Rubinson and Mr. Feiffer, that we had made a deal with Bill Chester, we had made a deal with Stern-Haskell, and that Stern-Haskell was an automobile company that had been in business for a long time and was doing, ten, eleven, twelve million dollars, that I had known Haskell for about a year, I thought he was a very capable automobile man, that he worked very hard at what he was doing, he wasn't a lazy man, he was aggressive, he was out working hard all the time, and he could be an asset to a public company; that we would have very small capitalization, the stock could be readily increased in value by the Auctino market, by buyers being brought in, and the company could make acquisitions,

and it could be a good little vehicle that would make money for both him, his firm, and for us, being we ourselves would own the stock, and that I would like him to get interested in it, as he had been interested in other stocks with me before. And I had been interested in other stocks with him before.

Q Do you recall any further discussion at that time?

A He said he would like to look it over, he would like to get the papers, he would like to explore the company, he would like to meet Haskell, he would like to work out an arrangement that would be satisfactory.

He said that he would like us to get a proper opinion letter so that the stock could be tradable, that he wanted to make sure that the stock was in good form, and that we would continue the conversation after he had done his investigation. He wanted to do his due diligence. I don't know if he went and visited the company, but he indicated to me he would like to visit the company, meet the people, see what they do, and so forth.

Q Is that all you can recall about that conversation?

A Yes.

Q What was the next conversation you can recall concerning Stern-Haskell?

A I think that soon after or maybe that same day or the next day I described the conversation that I had with

Levine with Feiffer and with Rubinson, told them that I think I can get Levine interested in the stock, and that we ought to all meet with Levine and work out an agreement with him, and that as soon as Levine was ready to talk to us that we would all go down and see him.

I think I told Mr. Haskell, but I am not sure whether it was at thatpoint or some point later, that I would like him to meet Larry Levine -- I don't know if he had met him prior, but at least I recall saying to Haskell that Lockwood is going to be developing an interest or is about to develop an interest, and when they come up show them around the place, or whatever the conversation was exactly, I don't remember, but that type of conversation.

Q What happened next concerning Stern-Haskell?

A After a short period of time Levine, evidently being satisfied with his investigation of the company, and being satisfied --

MR. ANDREWS: Objection to the witness' conclusion, and I move it be stricken.

THE COURT: Yes, that is a conclusion, that Mr. Levine was satisfied.

Q Tell us when you had another conversation on Stern-Haskell.

A Levine, in one of our conversations, because we were

in daily contact, said to me --

Q All right, who was present at this conversation you are about to tell us about?

A You didn't let me finish what I was saying.

Q I'm sorry, were you about to tell us that something was said?

A Yes. I said in one of our conversations Mr. Levine made an appointment with me for me to bring Mr. Rubinson, myself, to his office, or to meet with us someplace, and work out an arrangement whereby he would be the broker for the Stern-Haskell stock, he would be responsible for the distribution.

Q And did that appointment or meeting occur?

A Yes, it did.

Q Who was present at that meeting?

A I think that Mr. Feiffer, Mr. Rubinson, myself, and I don't recall if Mr. Wax was there or not, but I recall Mr. Wax being in one of the meetings. He could have been in this meeting, he could have been in the next meeting.

Q Tell us -- where did this meeting occur?

A To my best recollection, it occurred in Lockwood's office at Liberty Street.

Q Tell us who said what at that discussion.

A I cannot tell you who said what verbatim, but I can

tell you that at this meeting we reached an agreement. We told Levine that Feiffer owned about 50 or 60 thousand shares of stock. We went over the capitalization one more time. We told him that the public had about 50 or 60 thousand shares of stock. We told him that Chester and a group of insiders had "X" amount of shares of stock, probably 100,000 shares. There was about 200,000 shares out in all. And we assured him that there would not be very much stock coming out other than the stock that was in the hands of the people that we didn't know, that Chester an. his group of people would not be selling the stock and that we more or less had an understanding with them that they would let us know when they would be selling it, and the stock should easily be worth 8 or 9 or 10 dollars inasmuch as it was just a small amount of shares out, and that we had what is commonly known in the securities field as pretty much had the whole box, and he would be able to buy the stock as he needed it.

Q Was there any further discussion at that time?

A Yes.

Mr. Levine told us that he would like the stock to be placed with New York Stock Exchange firms, that he would like to buy the stock from a New York Stock Exchange firm rather than buy it directly from Feiffer, and we talked about the fact that it would cost us a double commission, and there was

no point in spending the commission giving it to a New York Stock Exchange firm when he could buy it directly. But he said that he would much rather buy it from a New York Stock Exchange firm and we didn't argue too much about that and we agreed that we would have the stock sold through New York Stock Exchange firms and we just ended the meeting.

Q Did Mr. Levine say anything about why he wanted it to go through New York Stock Exchange firms?

A He didn't have to. I really think that I understood what he meant, so there was no comment on it.

MR. ANDREWS: Objection, your Honor.

A My answer is: No, he did not.

Q Do you recall any further discussion at that meeting?

A I am sure there was some other conversations, but I don't recall anything else that was said that I haven't more or less generally described.

Q What happened next with respect to the STern-Haskell stock?

A (No response.)

Q I will withdraw that question.

A No, I really did want to add something to that conversation I just recalled.

You asked me a question, and I said I don't recall anything else, but I do recall something else.

Q All right, what was that?

A We agreed on a price for the stock.

Q Tell us what the conversation there was on that subject.

A We agreed on what we were going to make and what Lockwood would make or what Levine would make from the proceeds of the sale of the stock.

Q Who said what on that subject?

A We talked back and forth, and we really couldn't come up with a normal dollars and cents number because the stock was trading at a very, very low number. The stock was trading for hardly anything,because of the aborted effort on behalf of Gardner and the time lapse, so we talked back and forth about what the value of the stock should be and what the compensaion would be if the value was "X" amount.

Q Can you tell us what was said as you talked back and forth?

A We were talking what is known as shop talk, you know, in the securities field, and we were talking about underwriting being worth 10 or 15 percent or 20 percent of what the selling price was. You know, a broker sells stock they usually make 15 or 20 percent, so we were talking about 15 or 20 percent of the selling price, or in round numbers we were talking about if the stock was selling 4, 4-1/2

dollars, that Levine would get $1 a share, and the way I figured it out it would be a third of what the proceeds that Feiffer was receiving after our New York Stock Exchange expenses.

So our basic agreement was that if the stock got to about 4, 4 1/2 dollars, he would ge $1 a share. If the stock got up around 8, 9, 10 dollars, we would increase it in proportion. And so our agreement was that there would be no problem by my putting some buying in, maybe Rubinson or Feiffer putting some buying in; as I recall it, I put the buying in.

I got some brokers interested --

MR. ROBSON: Between his low voice and the noise, I couldn't hear him.

THE COURT: There was an unusual noise in the hall. Do you want the reporter to read it?

MR. ROBSON: Yes, please.

THE COURT: Read the last couple of lines, Mr. Reporter.

(Record read.)

A I got some brokers and some individuals interested and that more or less started the price increase.

Q Are you now telling us --

A I am getting ahead of the meeting. We left the meeting with the understanding that based on the shares that they sold, on the buying that they would generate to their customers or other brokers, that they would get approximately $1 a share.

Q Was there any discussion on whether they would get anything if the stock didn't get up to three or four dollars a share?

A They would get a proportion.

They would get a lesser amount proportionately.

Q Who is the "they" you are talking about?

A Lockwood & Company. I am talking about Levine and Wax at that point.

Q How did Mr. Wax get into this?

A I had been told that he was a partner in there and worked there every afternoon and that he participated with Mr. Levine in the business.

MR. ANDREWS: I will object to that unless the source --

MR. WOHL: I was just about to do it.

MR. ANDREWS: I will hold my objection.

Q Who told you that?

A Both Mr. Wax and Mr. Levine.

Q When did they tell you that?

A On numerous occasions, that they were partners.

Q When did these numerous occasions occur?

A During the course of our business relationship which had been for quite some time.

Q Incidentally, do you recognize Mr. Wax at all?

A Yes.

MR. ANDREWS: Identification conceded.

THE COURT: All right.

Q Could you tell us what you meant when you said putting buying in?

A Getting investors to buy the stock.

Q In this meeting you were just describing, did Mr. Levine say anything about whether Mr. Wax was going to participate in this transaction?

A Yes, he did.

Q What did he say on that subject?

A He said that Walter Wax would get some customers men over at Broad, plus himself, plus the brokers he knew, to put buying into the stock.

Q Did you know at that time how Mr. Wax was employed?

A I knew he was working for a member firm called A.T. Brod & Company.

Q Did there come a time when Mr. Wax was present at

any of your discussions with Mr. Levine on Stern -Haskell?

A Yes, he was present on some of the conversations, but for the most part our conversations were with Levine and our conversations were with Levine.

Q Do you recall when the first conversation occurred when Mr. Wax was present?

A I don't know if it was the first meeting, the second, the third or the fourth, but I know he was present in one or two of the meetings we had with Levine.

Q The meeting you just described for us, are you calling that the first, second, third or fourth meeting?

A I am calling the meeting where we arrived at the price, either the second or third meeting and I don't recall if Wax was there or not and I answered that question earlier. I said that I recall that Mr. Feiffer, Mr. Rubinson, myself and Mr. Levine was there. I don't know if Mr. Wax was at that meeting or at a later meeting.

Q I show you Government's Exhibit 108 in evidence, which is a letter from the law firm of Germaise, Cooper & Quinn, dated February 27, 1969, concerning Stern-Haskell and I ask you if you have seen that letter before.

A I don't know if I have seen this letter but I have seen a letter that looks like this before.

Q Did you give any opinion letters to Mr. Levine

concerning Stern-Haskell?

A I may have. I am not sure.

Q Was the subject of opinion letters discussed with Mr. Levine?

A Yes, it was.

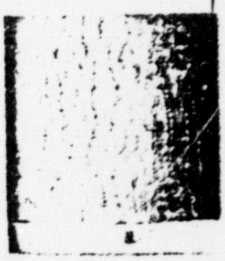
Q Was that at one of these meetings that you just described?

A Yes.

Q What was said on the subject of opinion letters?

A Mr. Levine requested opinion letters and I think that this particular opinion letter was already in our possession and we gave them this one and I recall him saying that he wanted another opinion letter from another attorney and my best recollection is that we did obtain another letter from another attorney by the name of Freeman, FRank Freeman.

THE COURT: Excuse me, Mr. Wohl. At this time we will take our morning recess. The jury is excused for fifteen minutes.



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Q Did you know in whose name those shares were issued?

A They were issued in the name of Lockwood & Company.

Q Did you have any conversation with anyone on the subject of the name Lockwood & Company being on the stocks?

A Yes. I discussed the name Lockwood & Company being imprinted on the certificates with Mr. Rubinson and he told me thathe had instructed the transfer agents to put them into the name of Lockwood & Company and it is a normal thing to have it in the name of a broker and it would be convenient rather than to have it in the name of the different individuals.

Q What was done with these stock certificates after you saw them at your apartment and by whom was it done?

A Feiffer and Rubinson went to Lockwood & Company's cashier cage which was on another floor in Mr. Levine's office. They went to Ben Malmeth.

MR. ANDREWS: May we know when this is taking place?

Q Do you know when this occurred?

A Over a period of time starting shortly after the certificates were issued.

Q Who is Mr. Malmeth?

A I think Mr. Malmeth was the president or what his exact office was, of Lockwood & Company.

Q Did you go with Mr. Feiffer and Rubinson to Lockwood & Company?

A Many times.

Q Did you go with them on these occasions when you referred to Mr. Malmeth?

A I may have, I may not have. I may have been at Mr. Levine's office when they went upstairs or I may have gone up to make a delivery to Mr. Malmeth myself on one of the other securities I was trading with the firm. I can't be positive, but I do know that Mr. Malmeth was given certificates made in the name of Lockwood & Company; that he endorsed those certificates for Lockwood & Company and then those certificates went to the bank where Lockwood's signature was guaranteed and those certificates were then taken to the New York Stock Exchange company.

Q What were the names of those New York Stock Exchange firms?

A The stock was put with [the T.P.O.] Granger & Co. --

THE COURT: Please don't give us any initials.

THE WITNESS: That is the name of the company, your Honor, [the T.P.O.], Inc.

Q Did it have a longer name at that time?

A I don't think so. At one time it was Tessel, Paturick & Ostrau, and it was then changed to [the T.P.O.] Inc. My best recollection is that the name of the company was [the T.] P.O., but maybe I am wrong. Then it was put at Granger and Company and the stock was put at Shaskan & Company.

Q Did you make those deliveries or did someone tell you about that?

A I don't recall if I made the deliveries or not. I don't think so. The stock was delivered by Mr. Feiffer because it was placed into his account. Maybe the brokers picked up some stock. I know that I personally did not deliver any of the stock to any of the brokers.

Q Did anybody tell you that Mr. Feiffer or Rubinson had any arrangements with Mr. Malmeth concerning any endorsements?

A Yes.

Q Who told you that?

A Mr. Feiffer and Mr. Rubinson told me that they had become friendly with Malmeth and persuaded him to endorse these certificates to accommodate them over and above his normal cost of business and that we would sell him a couple of thousand shares of stock at a reduced price and I don't recall whether it was 1,000 or 2,000 shares, but I know we sold Malmeth a couple of thousand shares for a cheap price for

extending himself and endorsing these vast amount of certificates which were in small pieces and getting them endorsed at the bank.

Q Do you remember how many stock certificates there were that he had endorsed?

A I think he probably endorsed sixty or seventy thousand shares in hundred-share pieces. That would be six hundred pieces or six thousand. I am not sure what the arithmetic is, but it was a lot of certificates.

Q What happened next after the stock certificates were delivered to [T. the] P.O., Shaskan and Granger?

A I didn't finish my other answer yet. I know that Feiffer told me that he had given Malmeth five, six hundred dollars a couple of times for his trouble and that he had given some money to the fellow at the bank that was endorsing these certificates for more or less like a tip, for spending his time there. That finishes the description of how the certificates were endorsed.

I may add to that that I don't think Mr. Levine was aware it was happening because it was happening upstairs and he didn't know that the certificates were being signed.

Q What happened to the certificates after they were endorsed, then I believeyou testified they were taken over to [T. the] P.O., Shaskan and Granger?

A Once the stock was placed with the New York Stock Exchange firms, it was placed in 10,000 share lots at a time. Theyjust weren't given -- in other words, if there was 60,000 shares, they didn't get 20,000 shares each and I don't know, unless I look at the records to refresh my memory, my best recollection is that they got three or four or five thousnad shares each and as the stock was being sold by Lockwood & Company Lockwood would call and request stock.

Q Who from Lockwood would call?

A Well either Mr. Levine or one of his traders, whoever needed to have to get the stock filled. For the most part, Levine would call and say "We need 2,000 shares of stock" or "1,000 shares of stock" or "1,500 shares of stock"and if I picked up the telephone and talked to him, I would call one of the three brokers and say "Sell for the account of Albert Feiffer,1,000 shares of stock."

If Feiffer happened to pick up the telephone, he would call. If Mr. Rubinson would pick up the telephone, he would call. For the most part, I made most of the calls as far as I can recall. I don't think Rubinson made very many. I don't know if he ever made any, but I am trying to describe the method of how these calls were made. For the most part Feiffer and I made the calls on the stock that Feiffer owned.

Q And these were the calls to whom?

A To the broker that we were going to supply the amount that Lockwood needed at the time. In other words, if he called and said he needed 2,000 shares and in the morning we sold 2,000 shares from Shaskan, the next 2,000 shares that afternoon or the next day or the third day, we will sell some from Granger and if we had already sold some from Shaskan and Granger, we would go to the P.O. and the P.O. would then -- or any one of the three, go to the highest bidder in the sheets and sell the stock.

Q When Lockwood would make these calls to you, the calls that you heard anyway, would you tell us first of all who you spoke to on the other end of the phone and what was said to you and what you said?

A When Lockwood called me?

Q Yes.

A Larry Levine would say "I need 2,000 shares of stock." I would say "What is your market?" He would say, for example, "MY market is 4-1/4, 4-3/4 and that is it."

You hang up. I would say, "I am short 'X' amount, I would like to buy so much"and that was it.

Q Did you have any communication with the New York Stock Exchange firms, that is, the P.O., Shaskan, and Granger as to who they should sell stock to?

A Well, more or less it wasn't too difficult for the

New York Stock Exchange firms to find their way to Lockwood.

In other words, the best way I can describe it is:

If I call Granger & Co. and talk to the customer's man, he puts an order into his order department. His order department canvasses the various people that ties in the pink sheets. If there are five people in there and he has an order to sell 2,000 shares, he knows --

MR. ANDREWS: Objection to these conclusions. One it is hypothetical and two, he is making conclusions and he has not been qualified as an expert, although I am sure he is.

THE COURT: What you are telling us now is what you know occurred with respect to getting stock to Lockwood?

THE WITNESS: Yes.

THE COURT: What is that knowledge based on?

THE WITNESS: Based on the fact that every time we put an order in, the order was filled and it was filled from the house -- in other words, the block we bought we bought it from the house we wanted to sell it to.

THE COURT: And you are saying the customer's man would look at the pink sheets?

THE WITNESS: That is not what I said.

MR. ANDREWS: He is speculating and he is concluding what must have happened.

THE COURT: In any event, what you are telling us

is that by calling a stock brokerage firm, you are able to tell them to sell a certain number of shares and those shares were sold to Lockwood, however they got there?

THE WITNESS: And I will tell you how it was done.

THE COURT: That is what we want to know.

How do you know how it was done?

THE WITNESS: If this gentleman will let me continue, I will tell you.

THE COURT: He wants to know the basis of your knowledge. Are you guessing?

THE WITNESS: I know it.

MR. ANDREWS: Is it based on something he observed, he saw?

THE WITNESS: Yes.

MR. ANDREWS: He is concluding.

THE COURT: What is the basis of your knowledge?

THE WITNESS: The best way for me to explain it:

If Lockwood called me and told me he wanted 2,000 shares of stock, he would call me back and tell me he bought 2,000 shares of stock so I would know the deal is completed.

THE COURT: That is what we are getting at. You just know it was completed. You don't know how it was done.

THE WITNESS: I know I placed an order with a New York Stock Exchange firm and he reported back to me he bought

the stock and who he bought it from. So that completed the circle.

Q Tell us from whom you received these final telephone calls that you referred to from Lockwood?

A That his order is completed?

Q Yes.

A From Mr. Levine.

Q What did he say in those calls?

A "I am filled." In other words, he needed 2,000 shares of stock. He said "I am filled." The order is completed. "I will let you know when I need some more" or we talked whatever we had to talk about.

Q Did he say anything else in those conversations?

A Nothing more than buy or sell whatever I happened to be trading that day and in the course of that conversation, he would tell me of the completion of the order.

Q Can you tell us how long a time passed between the conversations when Mr. Levine said he needed stock and the time when he would later call and say that the order had been filled?

MR. ANDREWS: We are talking now about a specific transaction, or some general kind of estimate? I will object if it is the latter and I would request that we refer to specific transactions.

THE COURT: Let me hear the question.

(Question read.)

THE COURT: On each of these occasions, is that what you are asking him?

MR. WOHL: Yes, your Honor. If there is a similarity of time period here, is what I am asking for.

THE COURT: All right.

A A normal completion would be between ten and fifteen minutes.

Q Do you remember how many of these transactions occurred?

A I would say twenty or thirty. I am not sure. Forty.

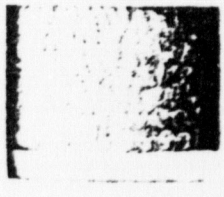
Q After these transactions would occur, did you receive anything in the mail?

A I didn't receive it. Feiffer would receive confirmations from the New York Stock Exchange firms to my address.

Q Did you see those confirmations when they arrived?

A Yes, I did.

* * *



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Q Was there a procedure you normally followed after receiving these -- after these checks were received either by yourself or by Mr. Feiffer or Mr. Rubinson?

A The checks were either cashed at the bank, deposited in the bank, or cashed by a check cashier. And the proceeds were divided according to the various accounts that we kept with outselves for how laid out what money for what and whatever money had to be brought over to Lockwood & Co. for their participation and what they had coming.

Q How did you figure out how much was due Lockwood & Co. of this money?

A Based on the number of shares he purchased from us.

Q Was this money that was due Lockwood the normal brokerage commission, or was it in addition to that?

A No, this was in addition to the normal brokerage commision.

Q Was there an understanding between yourself and Mr. Levine as to the form in which that money was to be delivered?

A Yes.

Q What was that understanding?

A It was to be delivered in cash.

Q Were these cash deliveries in fact made?

A As far as I know, yes.

Q How were they made?

A Well, at one particular transaction Mr. Levine sent a fellow by the name of Phil Kaye up to my apartment and I took him downstairs into my bank and I made a payment to him.

Q Before this event had you met Phil Kaye?

A I think I had met him up at the office, I am not sure.

Q At whose office?

A At Lockwood's office.

Q Prior to that had you known Phil Kaye?

A Not for any length of time, no.

Q Did you have any discussion with anyone as to

whether Mr. Kaye was going to participate in this transaction at all?

A Mr. Levine or Mr. Wax told me, or both, that Phil Kaye was working with them and that he had a wide acquaintanceship with brokers and that he was responsible for a lot of the buying that was being put in, and that Mr. Kaye wanted to get compensated for the work that he was doing, and that I should give him "X" amount of dollars based on the number of shares that was done at the time and I don't recall the exact amount.

I think he was over to visit us once or twice. I remember going down to my vault with him and giving him the money and then talking to Lockwood and talking to somebody there, either Levine or Wax and saying Mr. Kaye was here --

MR. ROBSON: I am missing it.

THE COURT: Keep your voice up.

A I recall going to my vault, giving Phil Kaye the money, and then calling Lockwood and talking to either Wax or Levine and telling them that Kaye was there and I had given him what I had promised to pay him.

THE COURT: Excuse me, Mr. Wohl, at this time we are going to recess until 2 o'clock for lunch. The jury is excused.

(Jury excused.)

THE COURT: The witness is excused until 2 o'clock for lunch.

(Adjourned to 2 p.m.)

AFTERNOON SESSION

2:15 p.m.

(In open court)

THE COURT: Bring in the jury.

(Jury present)

MR. WOHL: May I proceed, your Honor?

THE COURT: Yes.

S I D N E Y S T E I N, resumed:

DIRECT EXAMINATION (continued)

BY MR. WOHL:

Q Mr. Stein, on how many occasions did Mr. Kaye come to your apartment to pick up money in connection with Stern-Haskell?

A At least once or twice. For sure once. Maybe twice.

Q Do you recall how much money you gave him on the occasion you met with him?

A I don't know if it was five or ten or fifteen or twenty thousand dollars. I don't remember how much it was, but it was a sizeable amount.

Q Was it in cash?

A Yes.

Q Did you keep any record of it?

A I kept a record at the time but I haven't kept the

rk:mq 2 771a Stein-direct

record. This was five, six years ago.

Q Do you restill have that record, is my question?

A I don't have any record at all.

[redacted]

* * *

[redacted]

(In open court, jury present)

BY MR. WOHL:

Q Mr. Stein, did you have an understanding with anyone as to what Mr. Kaye was to do with this money that you gave him?

A I had an understanding with Mr. Levine to give the money to Mr.Kaye.

Q Was there an understanding as to what Mr. Kaye was supposed to do with the money?

A Mr. Levine told me that Mr. Kaye was working for the-- working on the distribution of the stock, and that he was sending him up to pick up the money and that I should give it to him, and I did.

Q Did you have any subsequent conversations with Mr.Levine concerning what Mr. Kaye did with the money?

A Only that he told me that Kaye had told him that he had picked up the money and he acknowledged the fact that Kaye had received it.

Q Now, was it your understanding that there were to be --

MR. ANDREWS: Objection to the leading form of the question, your Honor.

MR. WOHL: I will rephrase it.

MR. ANDREWS: Thank you.

Q Was there any understanding concerning distribution of money with respect to Stern-Haskell stock to anyone else other than Mr. Kaye?

A Yes.

Q What was your understanding on that subject?

A Our understanding was that on all the shares that were bought from the member firms that--

MR. CHESTER: I can't hear him, Judge.

A Our understanding was that all the shares that were bought from the member firms where we had placed the stock, that we were to pay Lockwood $1 a share, or approximately $1 a share, according to what the price was, and as Feiffer received his moneys he cashed the checks and from time to time went to Lockwood and made the payments.

MR. ANDREWS: Objection, your Honor.

I will object and move that be stricken because it is, (1) we don t know the basis of it, and (2) it is a conclusion on the part of the witness, unless he can testify he was there and saw it happen.

MR. WOHL: I think I can establish the basis of it, your Honor.

THE COURT: All right.

Q I was about to ask you, Mr. Stein, do you remember whether you were with Mr. Feiffer when he went down to

Lockwood as you described?

A I was with him on a number of occasions at Lockwood, and--

MR. ANDREWS: The objection, your Honor, is to whether or not he saw -

THE COURT: The man is answering the question.

Do you want to proceed?

A I don't recall any particular incident where I watched the money being counted out and Feiffer handing money to Levine or Wax, but I know that Feiffer reproted to me that he did in effect pay X amount of dollars each time the settlement date was, or every week or every ten days, based on the number of shares that were bought; based on the agreement that all of us had reached at the beginning of the deal.

MR. FISCHETTI: Your Honor, I am sorry, I must object to that last answer and move it be stricken unless Mr. Wohl places that answer in context.

"The agreement that we had at the beginning of the dea";is Mr. Stein now referring to the February 8th meeting, is he referring to later meetings at Lockwood?

I don't understand the answer, and I ask it be stricken unless it is established as to what time it was.

THE COURT: Please establish that.

Q Please tell us what deal you are referring to there, Mr. Stein?

A I am referring to the meeting at Lockwood's office after the Stern-Haskell stock was distributed.

Q Do you recall how many times Mr. Feiffer reported to you that he had paid Mr. Levine?

A Well, he not only told me about paying the money, he told me about making an arrangement to give him some stock, which I was familiar with at the time.

MR. ROBSON: I'm sorry, he reported on what?

THE WITNESS: He told me that he had worked out an arrangement with Mr. Levine to give him some stock, similar to the type of stock that he had given to Malmeth.

Q My question,Mr.Stein, is: Do you recall how many times he reported-- that is, Mr. Feiffer reported -- to you that he had paid cash to Mr. Levine?

A I would say at least on a half a dozen occasions.

MR. ANDREWS: Your Honor, may we have the date of the time that Mr. Feiffer allegedly reported that he had made an arrangement to give stock to Mr.Levine?

THE COURT: Do you have a date for that?

THE WITNESS: During the months of April, May and June and July.

MR. ANDREWS: That arrangement was made during the

months of April, May, June and July.

I move it be stricken, your Honor, as much too vague, and it has no probative value whatever.

THE WITNESS: You asked what date of payments.

THE COURT: You are referring to the agreement to give stock?

MR. ANDREWS: Yes, your Honor.

THE COURT: A date for when Mr. Feiffer reported to you that he had made an agreement with Mr. Levine to give Mr.Levine stock as well as Malmeth, as you testified; is that your testimony?

THE WITNESS: Yes.

THE COURT: He wants to know if you can give him an approximate date.

THE WITNESS: Of the stock or the dollars?

THE COURT: Of the conversation where Feiffer reported this to you.

THE WITNESS: He told me about the stock some time in May or June.

MR. ANDREWS: Thank you, your Honor. The stock to Levine, not the stock to Malmeth.

THE WITNESS: The stock to Levine.

MR. ANDREWS: Thank you.

Q Do you recall how many shares of stock Mr. Feiffer

referred to?

A I don't know if it was five or ten thousand shares of stock, but I know it was at least five thousand shares.

Q And that was stock in what company?

A Stern-Haskell.

Q Did anyone ever report to you whether or not that stock was actually delivered to Mr. Levine?

A I think Mr. Rubinson told me that he had given Feiffer the stock. Feiffer told me that he had delivered it. Or Feiffer told me that he had delivered it. I know that the stock passed hands.

MR.ANDREWS: I object to the last statement and ask it be stricken as a conclusion that he knew it passed hands.

THE COURT: Yes. Tell us how you knew it.

THE WITNESS: I was told it was finally delivered, and Mr. Levine told me he had received it.

THE COURT: By whom were you told it was delivered?

THE WITNESS: By either Feiffer or Rubinson. I am pretty sure it was Feiffer who delivered it, and it was acknowledged to me by Mr. Levine, who told me that he had received it.

Q Now, did you ever have any conversations with

Mr. Levine on the subject of whether or not he had received any of this money that was, as you testified, reported to you to have been delivered to him?

A Yes, I did.

Q When did you have these conversations?

A During the course of the time that the payments were being made.

Q Do you remember what Mr. Levine said in these conversations?

A He would remark from time to time as to what the open balances were, or when he was paid in full, or when he was satisfied as to what was going on, and what was happening with the market, and various things relating to the money and to the activity of the stock.

MR. ANDREWS: I object to all that testimony and move it be stricken.

It is a characterization by the witness.

I would request that he be asked to report conversations as best he remembers them rather than his conclusions that flow from the conversation.

THE COURT: All right.

Tell us as best you can recall what you said on that subject and what Mr. Levine said.

A Well, Mr.Levine told me that he was getting stock

in from strange brokers, that he was continaully getting hit with two, three, four, five hundred shares at a time, and asked me who the brokers were in Miami that were selling the stock.

I said I would find out who it was, and--

MR. ANDREWS: Objection. It is not responsive to the question.

The question was relating to these payoffs. He is now going off into something about brokers in Miami.

THE COURT: This is relating to how he got paid or Mr. Levine's conversation or acknowledgment that he got paid? Is that related to that? That was the question, did Mr. Levine ever acknowledge receipt of the stock or the alleged payment of money?

THE WITNESS: Yes, he did.

THE COURT: All right.

Now, tell us what he said to you and what you said to him which shows the basis of your knowledge that he was in fact paid.

THE WITNESS: He told me from time to time when he received money that he had been paid, and told me what was outstanding, whether he was fully paid or whether he wasn't fully paid, and whether he was satisfied or wasn't satisfied with the way the deal was going.

I think I answered it exactly that way just a minute ago.

Q On some occasions do you recall whether or not he had complained to you that he had not been paid--

MR. ANDREWS: Objection to the leading question, your Honor. He was asked for conversations regarding payments.

Mr. Wohl is now leading.

THE COURT: I believe the witness did say that he was at times told by Mr. Levine whether he was satisfied or not.

Youcan ask him what Mr. Levine said on that score.

MR. ANDREWS: Thank you, your Honor. That's the proper way to ask it.

Q What did Mr. Levine say on the scoe of whether or not he was satisfied or not satisfied?

A He sometimes asked me when Feiffer was coming down again or why Feiffer didn't show up one day, or when Feiffer was going to be back in town, if Feiffer was out of town, and I would respond to him.

* * *

Q When did this conversation occur?

A At the time that Levine requested that we place the stock with a New York Stock Exchange firm.

Q Do you recall where the conversation occurred?

A Again, either in my apartment or while we were having dinner or in Lockwood's office or in Miami. Anyplace that the three of us happened to be.

Q The answer is "No," you don't recall?

A I don't recall where it took place.

Q What was said about the number of New York Stock Exchange firms and who said it?

A The request by Levine for the stock to be placed with a New York Stock Exchange firm seemed to be a fair question. He wanted the stock to be coming into him from a New York Stock Exchange firm. He didn't know that the stock was already in his name. He didn't know that the stock was in Lockwood's name and he wanted for all outward appearances to buy the stock in proper form from a New York Stock Exchange firm

The New York Stock Exchange firm accepted the stock, he would be able to rely on the fact that the stock was good,

registered stock and transferrable and so forth, which had I been a broker, I would have done the same thing he did.

MR. ANDREWS: Objection.

THE COURT: The objection is to your statement of what you would have done.

THE WITNESS: I am sorry.

A His request seemed fair to me so the next thing to be done was to place the stock with a New York Stock Exchange firm so Rubinson, Feiffer and I had the following conversation:

I said we can't put this stock with one firm because the block was too big and if we did, the firm wouldn't take it and if they took it, they would start questioning whether or not this was a controlled block.

So, by breaking it up into three blocks of stock and giving it to a New York Stock Exchange firm, each one would have, which would not amount to, a controlling block.

Q Did you have any further conversation on the subject of a controlling block?

A Yes. I thought that the amount of shares that Feiffer had was approaching a controlling block of interest based on the amount of shares that were in float and the amount that were out and we told Lockwood that we had less shares than we had because we didn't want him to be concerned that

the block was too large.

MR. ANDREWS: I request your Honor he make it clear. He told Lockwood. There is no such thing.

A I told Levine a lesser amount or we told Levine a lesser amount of shares that was owned by Feiffer than was really owned.

Q Will you tell us what you said, what Mr. Rubinson said and what Mr. Feiffer said during this discussion?

A They became aware of what I was pointing out was correct. I was concerned about the size of the block. I was concerned about how the block was gotten in the first place by the fact that it wasn't an ordinary spin-out, it was a different type of spin-out and we just sat down and reviewed what we were doing to try to make it all be more proportionately correct and try to stay within the boundaries of what a normal transaction of this type would appear to be so that the brokers buying it would not have to be concerned about a controlling block and that we as sellers, would not be identified by one large brokerage firm or one New York Stock Exchange firm as having a large block of stock.

So we sat and talked about various things. Rubinson and I talked about the fact that Chester is a lawyer, Chester understood this whole thing, Chester said it was all right.

Germaise had sent a letter, Freeman had sent a letter and we more or less consoled ourselves with the fact that while Feiffer had this large block and we were partners with him, it was a borderline situation. It wasn't an out and out contemplated thing that these shares were going to necessarily be picked up. We would take our chances as to whether they were or not.

Q Did you have any discussions on this subject of this spin-out that you referred to?

A Yes, we did.

Q When did these discussions occur?

MR. CHESTER: Which spin-out are we talking about now? He just said discussions on the spin-out. There has been a lot of discussions about a lot of spin-outs. I want to know which one he is talking about.

MR. WOHL: I think the witness just referred to a spin-out or spin-off in his prior answer.

THE COURT: Yes.

MR. WOHL: I am asking him whether he had discussions on that subject. I think it will become clarified.

THE COURT: Yes. Proceed.

A Yes, we had conversations about the spin-out.

Q When did these conversations occur?

A They occurred before the deal started or before

the agreement with Stern-Haskell was completed. It was discussed after it was completed and it was discussed along the way several times.

Q Who was present at these discussions?

A I was present, Mr. Chester was present, Mr. Rubinson was present, Mr. Feiffer was present.

Q Where did these discussions occur?

A Some of the discussions occurred in Miami and some of the discussions occurred in New York.

Q What was said on that topic?

A I said that I didn't like the way the stock was being bought then delivered to the National Ventures stockholders; that National Ventures should have an asset; that National Ventures should merge with Stern-Haskell rather than buy the stock and spin it out. I said that I believe that Stern-Haskell should be the surviving company and the name of National Ventures be changed to Stern-Haskell.

I said that the shares of National Ventures should have a trading value and that just buying the shares and distributing it to the National Ventures stockholders was not the normal way spin-offs were done and we discussed that back and forth.

Q Do you recall anything that anybody said in response to what you said?

A Chester said that although we had not used this same method in the other companies we were involved with before, he thought it was the proper way to do it and he would get the proper documentation from the different SEC attorneys and get legal opinions that will concur with his theory and I always thought it was sticky and said so.

Mr. Rubinson agreed with me at the time and evidently Chester being an attorney, he convinced us that it was okay and we went along with it.

Q When you say "sticky," what do you mean by that?

A It is just that it wasn't the normal way a company was spun out. We had four or five spin-outs at Allan Electronic which were all done in a proper, orderly fashion and I never had any trouble with them from any of the agencies or what.

This was just a new theory Chester had sold us and we went along with it.

Q When you say convinced us, what do you mean by that?

A I am talking about convincing Rubinson, Peiffer and myself.

Q Were you convinced?

A Not really, but I went along with it. I don't

know if Mr. Rubinson was convinced, but I know it certainly wasn't the normal way we had done our business before.

Q I am showing you Government Exhibit 187 for identification, and I ask you do you recognize that document?

A I have to read it but I recognize the name of the attoaney and I recognize a document that was similar to this that I had seen before.

Q Do you know when you saw that document before if you ever saw it before?

A I have seen it before probably right after it was prepared or hand-picked-- I don't know if it came in the mail or we picked it up, but I remember when this document came down.

Q Is that one of the documents--

A I remember when it was received from Freeman.

Q And is that a letter from an attorney named Freeman?

A Yes, Frank Freeman.

Q To Mr. Feiffer, is that correct?

A Yes.

Q Who had it when you saw it the first time, if you recall?

A Either Mr. Rubinson or Mr. Feiffer, I am not sure.

Q Is that one of the documents that you found in Mr. Feiffer's briefcase?

A I think so, yes.

MR. WOHL: The Government offers 187 for identification.

MR. CHESTER: I have never seen it, Judge.

THE COURT: Show it to Mr. Chester, please.

MR. CHESTER: No objection, your Honor.

xx (Government Exhibit 187 received in evidence)

Q Government Exhibit 187 in evidence is an opinion letter from Mr. Freeman, is that correct?

A Yes.

Q Did you talk to Mr. Freeman about this opinion letter?

A I could have, I am not sure.

Q Do you know what was done with this opinion letter after it was received in your apartment in New York?

A We gave a copy of it to Levine.

Q This was the second opinion letter that you turned over to him?

A Yes.

MR. CHESTER: Which was the first letter turned over to him? Has that been introduced?

MR. WOHL: If I am not mistaken,he testified that

he thought the Germaise letter had been turned over to Mr. Levine first and then a second letter was turned over.

Perhaps I should read this letter to the jury, your Honor, or if your Honor would prefer not --

THE COURT: That is a very long letter. Is it substantially the same as the other or is there something from the one which was read previously to the jury?

The Germaise letter was read.

MR. WOHL: That is right.

THE COURT: Is this substantially different?

MR. WOHL: I would say it is significantly different.

THE COURT: Then you may read it.

MR. ROBSON: I would like to have it read to the jury.

MR. CHESTER: So would Chester.

(Government's Exhibit 187 in evidence read to the jury)

Q Now, Mr. Stein, did you have any discussions with Mr. Feiffer or Mr. Rubinson concerning this particular letter?

A Yes.

Q When did those discussions occur?

A At the time we received the letter.

Q Where did they occur?

A I don't know.

Q Who said what in these discussions?

A Just that the letter was going to be delivered to Larry Levine.

Q Was anything else said concerning that letter?

A Not that I recall.

Q Did you ever have any discussions with Mr. Levine concerning other market-makers for Stern-Haskell stock?

A Yes.

Q When did that subject arise in your conversations?

A I don't recall what day or what week or exactly when, but in the course of distributing the stock.

Q Who was present at the discussion of that subject?

A I don't recall who was present. I just know what I heard and if anybody else was present, I don't recall at this time.

Q What was said on that subject?

A Mr.Levine told me that he was going to have various brokers or he had gotten various brokers that would be in the sheets and make a market alongside of him and I

recall him particularly telling me that he had a firm called Barroff & Company that was going to be buying some stock and distributing it to its customers.

Q Did Mr. Levine during the course of these transactions ever make any complaints to you?

MR. ANDREWS: Objection.

It has already been asked and answered. We have a long record here about whether or not he made complaints. We went through it this morning.

THE COURT: I don't recall that.

MR. WOHL: I don't recall it this morning.

The only reference I recall is about the money.

THE COURT: Is this other than the money you are asking about now?

MR. WOHL: No, it is not.

THE COURT: It's again related to money?

MR.WOHL: This is not related to money. The only thing I recall is related to money.

THE COURT: Is this other than money?

MR. WOHL: That is correct, your Honor.

THE COURT: Proceed.

A He complained to me that stock kept coming in from strange sources and the stock was coming in from Florida and different places and he wanted to know if I

knew where it was coming from and that he just couldn't keep making his market with all these strange shares coming in that he wasn't expecting.

Q Did he say anything on specifically where the stock was coming from?

A He told me it was coming from Miami, from Prudential Investors or a name similar to that.

Q When you say stock was coming in, what do you mean by that?

A He made a two-way market. He had a bid and asked. A bid is to buy and an asked is to sell and in the course of his doing his business, he would receive calls from brokers that were strange to him and he would say "My price is 4-1/4 or 4-1/2,"whatever his price was on the bid side and they would say they want to sell 200,300, 500 shares according to the bid, whatever he gave out he was obligated to sell them the amount of shares he gave them a size for.

Q Stock coming in meant stock being sold to him?

A Stock being sold. When he answers his phone and he gives a price, he is obligated to buy or sell. Every trader is obligated to buy or sell upon request. In light of the fact that he is in the sheets, he can either have an offer of a bid without a price or if he has a price and gives a price, he has to either buy or sell in response to

the telephone call that he gets.

MR. ANDREWS: Your Honor, I will object to that because it is not complete and therefore it confuses the jury unless Mr. Wohl is willing to stipulate that he only bought or sold 100 shares.

THE COURT: Do you want to stipulate to that? I think this man testified.

MR. WOHL: I think that is correct, your Honor.

MR. ANDREWS: We have an expert right here.

MR. WOHL: I don't hold myself out as an expert.

MR. ANDREWS: We have one right here. Let's let him tell us.

BY MR. WOHL:

Q Is it correct, Mr. Stein, that as far as you understand it, when a trader answers his phone and makes this two-way market response, he is only obligated for 100 shares?

A Unless he gives a size on it.

THE COURT: Unless he what?

THE WITNESS: Unless he gives out a size, sizes a specific amount. The broker will say "How many shares will you buy?"

He says, "I'll buy 5 and lose 9," which means he will take 5 and sell 9, unless he has a specific amount, or he says "all or none."

It is according to the terminology at the time of the question.

Sometimes he just gets quoted for price. He doesn't have to buy it if the wording is that the guy says, "I want a quote." Then he doesn't have to buy.

Q He only has to buy if he asks the guy on the other side what his size is, is that it?

A Yes, he gives him a specific price.

Q And by "size" you mean number of shares, is that right?

A Yes.

Q Going back to your conversation with Mr. Levine, did he say anything further about this stock that was coming in? Was there anything further in the same conversation when you said stock was coming in?

A Yes,he wanted to know where it was coming from, or if I could find out where it was coming from.

Q Did he say anything on whether that was consistent with what you had told him about?

MR. ANDREWS: Objection. This is leading.

THE COURT: Yes.

Ask him what else was said about this complaint.

Q Was anything else said about this complaint or about this subject?

A Other than that he said that--

MR. CHESTER: I can't hear the witness.

MR. ANDREWS: Remember what Mr. Wohl said. That is what the answer is going to be.

THE COURT: Pardon me? What did you say, Mr. Andrews?

MR. ANDREWS: I said-- I suggested to Mr.Chester if he remembers what Mr. Wohl said in the question that is what the answer will be.

I apologize to the Court, but I do object to this continued leading.

* * *

MR. ANDREWS: Your Honor, I would request, however, at this time-- I think Mr. Wohl has got certainly the cleverest witness in this case on the stand right now, and one of the cleverest ones that will ever come into the courtroom --

THE COURT: That is a conclusion, Mr. Andrews.

MR. ANDREWS: I understand that.

The jury is not here. I wish you would admonish Mr. Wohl not to lead him any more. Let him give us his recollection without being led into this testimony.

THE COURT: And I have told Mr. Wohl that.

MR. ANDREWS: Thank you, your Honor.

THE COURT: The witness is excused for fifteen minutes.

(Recess: Time noted: 3:30 p.m.)

(In open court, jury present)

(Time noted: 3:45 p.m.)

MR. WOHL: May I proceed, your Honor?

THE COURT: Yes.

BY MR. WOHL:

Q Mr. Stein, did you have any further conversation with Mr.Levine on the subject of this stock that was being sold to him?

A Yes.

Q What was that?

A He complained about it and he said, "I thought you fellows had this box sewed up, I thought you had control over the people that owned the stock. Shy is this stock coming in?"

Q Did you respond to him on that subject?

A I said, "Yes, I would find out where it was coming from and I would see what I could do about correcting it."

Q Was there any further conversation at that time?

A I don't recall the conversation other than him being annoyed and my response as I just gave it to you.

Q Did you discuss that matter with Mr. Rubinson?

A Yes, I did.

Q When?

A Either the same day or the next day, and I --

Q What did you say and what did Mr. Rubinson say?

A I told Mr. Rubinson that Levine had complained to me that there was selling coming out of Miami, and he said that he would find out about it and check with the transfer agent and check with Chester, and then told me that he found out that Chester had been selling stock, or friends of Chester had been selling stock, and that Chester had a block of stock and he wanted to sell it.

So after talking about it for some time and

meeting with Chester, we arranged for Chester to sell the stock that he wanted to sell rather than keep selling it through the broker in Miami that kept hitting Lockwood.

Q Did you have a discussion with Mr. Rubinson about that?

A Yes, I did.

Q Who said what? That is, what did you say, what did Mr. Rubinson say on that subject?

A I told him that we had told Levine that there wasn't going to be any strange selling, that he was annoyed, he couldn't maintain his market if he kept getting hit with stock, and we had to get to the bottom of it, and we did.

Q Was there a time when you arrived at a conclusion as to what should be done about that?

A Yes. I don't know if together or one of us or both of us confronted Chester --

Q Who are you referring to now?

A I am talking about Rubinson and myself. We confronted Chester, and he said that he had been selling the stock and that he had a block of stock and that he needed some money and he wanted to sell the stock, and he was told he was supposed to hold it and said, "I can't hold it. I need the money. I want to sell it."

Q So what happened next?

A Rubinson and I --

MR. ROBSON: Can we have this placed somewhere in history?

THE WITNESS: This conversation was in Miami.

* * *

Q First of all, did you meet with Mr. Chester in Miami on this subject?

A I am not sure if I did or not but I know I did meet him in New York on this subject.

Q The next question, did you have any telephone conversations with Mr. Chester where you were in New York and he was in Miami, on this subject?

A I don't recall.

Q Did Mr. Rubinson report to you any conversations on this subject?

A Yes, he did.

Q Tell us what Mr. Rubinson reported to you?

A Rubinson told me he had contacted Chester and Chester wanted to sell us stock. Thereafter Chester came to New York and met with me in New York.

Q Before Mr. Chester arrived in New York, were any arrangements made concerning his selling the stock?

A Yes.

Q Who was present at the making of those arrangements?

A Mr. Feiffer, Mr. Rubinson and myself and Mr. Gluck and Mr. Spitzer.

MR. ROBSON: I didn't get the names.

THE WITNESS: Mr. Gluck, Mr. Spitzer, Mr. Feiffer, Mr. Rubinson and myself.

* * *

Q Do you remember how many shares of Stern-Haskell stock was sold through the B'Noth Jerusalem account?

A 20,000, 30,000 shares, 35,000 shares. I am not sure.

Q Were any payments made to anyone in connection with the sale of any of those shares?

A Yes.

Q To whom?

A To Lockwood & Company, to Levine.

MR. CHESTER: I can't hear him, Judge.

THE WITNESS: To Lockwood & Company, Levine.

Q Do you remember how many payments were made specifically in connection with the B'Noth Jerusalem shares that were sold?

A No, I don't.

Q Do you know an individual named Spiro?

A Yes.

Q Did you have occasion to hear of Mr. Spiro in connection with Stern-Haskell stock?

A Yes.

Q From whom?

A Either from Harry Silber or from Norman Rubinson or from Mr. Feiffer, I don't know. From one of the four of us, one of the three of us.

MR. FISCHETTI: May we know whether Spiro is a last or first name?

MR. ROBSON: Is he saying he may have been talking to himself? He said he heard about it from one of the four people.

THE WITNESS: One of the three of us.

MR. CHESTER: I thought there were three in a group, now there is four in the group?

THE WITNESS: There is four in the group with Silber.

Q Who was Mr. Spiro?

A He was--

MR. ROBSON: Could we have that answer corrected? Is he now saying he heard it from one of the three?

MR. WOHL: He said there were four people--

THE COURT: Let's go on, Mr. Wohl.

Q Who was this Mr. Spiro?

MR. ROBSON: Your Honor indicates impatience.

THE COURT: Yes, because it is clear --

MR. ROBSON: May I finish my statement?

THE COURT: No, you may not.

It is clear the witness said it inadvertently. He said three or four of us and it is clear to me it was an inadvertence and I will not hear it.

MR. ROBSON: It isn't that clear to me.

Q Who was this Mr. Spiro?

A He was a man that was a factor, foreign factor or foreign banker that would buy stock and either finance it through the foreign banks or would buy it, then sell it out for his own account. He was either an agent or a principal according to what his particular evaluation of the particular situation was.

Q Could you tell us when this conversation occurred concerning Mr. Spiro with respect to Stern-Haskell?

A Some time in June or July, I believe. April or May. I am not sure.

Q I show you Exhibit 183 for identification and ask you if that refreshes your recollection of when Spiro was discussed in connection with Stern-Haskell?

A Some time in May. That refreshes my recollection.

Q Who said what on the subject of Mr. Spiro in connection with Stern-Haskell?

A There was a conversation and a tentative agreement drawn-

MR. ROBSON: If your Honor please, who said what was the question.

A Who said what?

Q Yes.

A Well, according to my recollection Feiffer had made up a letter offering to sell 65,000 shares --

MR. ROBSON: If your Honor please, the question was who said what.

A Mr. Feiffer told me that he made up a letter that offered to sell 65,000 shares of Stern-Haskell stock to Mr. Spiro.

MR. ANDREWS: I object to this whole line of testimony on the ground it is not charged in the indictment as part of the conspiracy.

We have no notice that we were going to be charged with any of these acts about which the witness is testifying.

MR. WOHL: The Government submits the indictment charges it was part of the conspiracy to sell Stern-Haskell stock, and this is going to the testimony of another

transaction to sell Stern-Haskell stock.

That is certainly included within the framework of the indictment.

MR. ANDREWS: The indictment spells out what is alleged to be a scheme to distribute the stock in the New York area through New York brokers.

It makes no mention of any Spiro in Switzerland or any foreign group or any foreign bank or any foreign party to the conspiracy.

The first time we ever heard about this is in the courtroom, and some vague suggestion --

THE COURT: The indictment alleges a conspiracy to sell Stern-Haskell stock. The Government is not required to set forth in the indictment every act upon which it relies.

So that the Government can proceed with reference to that claim that there was a conspiracy to sell Stern-Haskell stock to show what sales were made.

Overruled.

Q Can you tell us who said what in this conversation, Mr. Stein, on the subject of Mr. Spiro with respect to Stern-Haskell stock that you can recall?

A. My best recollection is that Spiro may have been in New York or he had been contacted. We had done some

business with him before. When I say "we," I mean Silber, Feiffer, Rubinson and myself. I don't know if Silber contacted him or if Rubinson contacted him or if Feiffer contacted him, or if he contacted us, and he happened to be in New York and Silber and Feiffer got into a conversation with him and drew this letter,or if Rubinson got into a conversation, but somebody got into a conversation, and I remember seeing this letter signed by Feiffer offering to sell this man 65,000 shares of stock.

Q I show you Government Exhibit 183 for identification, and I ask you if that is the letter that you are referring to.

A Yes, this is the letter I am referring to.

Q Do you recognize the signature on that letter?

A I recognize it as Albert Feiffer's signature.

Q Is that one of the documents that you found in your apartment?

A Yes, this is one of the documents I found in Mr. Feiffer's briefcase in my apartment.

Q I show you Exhibit 184 for identification, and ask if you recognize that document.

A Yes, I do.

* * *

* * *

THE COURT: All right, proceed.

Q Other than the money that was given by yourself to Mr. Kaye, as you testified yesterday, and also the money delivered to Mr. Levine, as you understood, by Mr. Feiffer, as you testified yesterday, how were the profits of the sales of Stern-Haskell stock that you described yesterday distributed?

A The profits of the stock was divided between Mr. Rubinson, Mr. Feiffer and myself.

Q In what percentage?

A Mr. Feiffer got X amount of dollars for his taxes and then Mr. Rubinson, Mr. Feiffer and myself divided the money in three equal portions.

Q Did you ever have any discussions concerning Mr. Haskell's participation in those profits?

A Yes.

Q When was the first of those discussions?

A Mr. Rubinson -- it was back in February or March.

Q Who was present at the discussion that you are referring to?

A Mr. Rubinson and myself.

Q Where did this discussion occur?

A Either in New York or Miami, I am not sure.

Q What did Mr. Rubinson say and what did you say?

A Mr. Rubinson told me that he had promised to give to Stern, to another man whose name I forgot, and to Mr. Haskell, a percentage of the profits of the proceeds.

Q Did Mr. Rubinson say to whom he had made this promise?

A He told me he had told Mr. Haskell this at the time he was attempting to make the deal for National Ventures to buy the stock of Stern-Haskell.

Q Did Mr. Rubinson say what profits he was referring to, in this conversation?

A The profits from the stock the four people had bought that we had an interest in.

Q Did you ever have occasion to discuss that matter with Mr. Haskell?

A Yes, I did.

Q When did you discuss that with him?

A Sometime later Mr. Haskell approached me and told me that --

Q Where -- excuse me -- how long later?

A I would say right after the stock started trading, when the stock got up around 2, 3, $4.

Q Where did you have this discussion with Mr. Haskell?

A Somewhere in New York, at one of our meetings.

Q Was anyone else present besides yourself and Mr. Haskell?

A No, I think just Haskell and I talked about it.

Q What did Mr. Haskell say and what did you say in that conversation?

A He told me that he was promised a share of the profits and he asked Rubinson about it and Rubinson had been stalling him and he would like for me, being Rubinson's partner, to see what we can do about it, and I told him I would let him know, and I put him off for enough time to get back to Rubinson.

Q Was there anything else said in the conversation between yourself and Mr. Rubinson that you referred to just before this conversation with Mr. Haskell?

A Yes. Mr. Rubinson said "Let's just promise him," but we never intended to give Mr. Haskell any of the profits, "Just stall him around, any time he asks you about it, tell him okay, we will get to it."

* * *

Q Did you have a conversation with Mr. Rubinson about this stock?

A Yes, I did.

Q Where did this conversation occur?

A Either in New York or Miami, I am not sure.

Q Is this the same time you first saw the stock?

A Yes.

Q Was anyone else present at this time?

A I'm not sure if Feiffer was there or not. He cold have been. We usually traveled together, so I can't be sure if he was there or not.

Q Would you tell us what yousaid and what Mr. Rubinson said in this conversation?

A He said that he had a block of about 300,000 or 350,000 shares of stock and the transfer agent put it in the name of Lockwood & Company and he was going to take it to New York and that we would use the stock from time to time --

MR. ROBSON: I am not hearing it, your Honor.

A -- we would use the stock from time to time as we needed it to sell it for investment stock or use it for acquisitions for the company.

Q Do you recall any further conversation concerning

that stock at that time?

A Yes. We decided that we would put it into a safe deposit box which we both had access to.

Q Where was that safe deposit box located?

A The Chemical Bank, 360 East 72nd Street.

Q Were there discussions concerning selling Stern-Haskell stock to Mr. Spiro?

A Yes.

Q When did those conversations occur?

A Some time in May.

Q Who said what on that subject-- withdrawn.

Who was present at those conversations?

A Harry Silber, Norman Rubinson, Albert Feiffer and myself.

Q Who said what in those conversations?

A I don't know the exact wordage of any of those conversations, but I know that we discussed the possible sale or the attempt to make a sale to Mr. Spiro.

Q A sale of what?

A Of 65,000 shares of stock.

Q In what company?

A In the company of Stern-Haskell.

Q Did you discuss whether the stock that was talked about being sold to this Mr. Spiro was going to be stock

from this 300,000share batch of stock or was going to be the other stock that you testified about earlier?

A No, it was going to be from the 300,000 share block or 350,000 share block.

Q Did you ever discuss using anystock from that 300,000 or 350,000 share block for any purpose other than this sale to Mr. Spiro?

A Yes. We were going to use the stock for acquisitions or for anybody else that we could sell investment stock to.

Q Who did you talk about making acquisitions with this stock?

A The company, Stern-Haskell, wss exploring one or two acquisitions at the time and I recall there was some kind of letter or some kind of agreement that we were trying to make with an automobile company called the Cord --

MR. ROBSON: I didn't hear the last ten words.

A We were attempting to make some kind of purchase with a company called Cord Car or Cord Manufacturing.

Q This block of stock of 300,000 or 350,000 was listed in whose name?

A To the best of my recollection, it was listed in the name of Lockwood & Company.

Q That is what you call the street name?

A Yes.

Q Do you recall the denominations of the shares?

A I believe they were in 1,000 share certificates.

Q Have you been involved in other corporate acquisitions?

A Yes.

Q On how many occasions?

A A hundred or more.

* * *

Q Where did the conversation occur?

A Some place here in New York. I am not sure where the meeting was.

Q Do you recall who was present at the conversation?

A Yes. Mr. Haskell, Mr. Rubinson, Mr. Feiffer and myself.

Q Who said what concerning the sale of the stock to Mr. Gardner?

A Mr. Haskell told us that Gardner had been trying to borrow some stock from him, or buy some stock from him, because he had some business problems and he needed to raise some money, or he needed to use it for ratio, and that Haskell felt sorry for him and he wanted to make him a loan or sell him the stock at a cheap price, and Haskell pointed out to me that originally Gardner wanted to buy the stock and we had all agreed, and Haskell said that Gardner was hurting and that he had originally-- we all had originally agreed that we would sell Gardner the stock, and he wanted to know if it was okay with us.

I said, "I don't know why we should sell the stock to Gardner." I think Rubinson and Feiffer took the same attitude. We all decided, "Well, if you promised it to him, it is investment stock anyway, I don't know what he can do with it, let's give it to him."

And it was done based on an accommodation more than an actual sale or any other motive that I can recall for giving him the stock.

Q Prior to this occasion-- you used the term investment stock--prior to this occasion had you been told by anyone that this is investment stock?

A I knew it was investment stock because it wasn't tradeable stock.

Q You are using the term investment stock to mean any stock that is not tradeable, is that it?

MR. HIGGINS: Your Honor, I believe the question was whether or not he had been told by anybody that it was investment stock, and then he went on to state a conclusion.

Would he please respond to the question, your Honor?

THE COURT: I believe his answer was that he knew that of his own knowledge, is that it?

THE WITNESS: Yes, your Honor.

Q What was your knowledge based on?

A Based on stock that is not previously in circulation, being stock that comes out of a treasury, that is not registered, it is investment stock.

Q Was this stock that you are talking about now part of this 300,000 or 350,000 share block of stock?

A Yes, it was.

Q In any event, did you have any further discussion with Mr. Haskell and whoever else was present at this meeting you were just describing?

A We said that we would arrange for Gardner to get the stock.

Q What happened next?

A Mr. Rubinson called the transfer agent in Miami, and told him to bring the stock up for Mr. Gardner. We went to see Gardner -- no, I am sorry, I have to correct that. We went to see Gardner and Gardner--

Q Who was present when you went to see Mr. Gardner?

A Mr. Rubinson, Mr. Feiffer and myself.

Q And then what happened, or what was the discussion at that time?

A And Gardner said he wanted the stock in his name, in the name of Michael Gardner.

Q Were there any stock certificates there at that meeting with Mr. Gardner?

A I don't recall if we had them with us or if we wanted to give him the stock in the name of Lockwood and he didn't want it, but I know he wanted the stock in his own name.

Q Was there any other discussion at that meeting that you can recall?

A That he would sign a letter and that he would like to have the stock as quickly as possible, and Mr. Rubinson called the transfer agent, I believe Sten Nordin was his name, and arranged for Nordin to bring the stock to New York to Mr. Gardner.

Q Was there any further discussion in Mr. Gardner's presence at that time?

A Yes.

Mr. Gardner said that he thought he could get a loan on it and he would be able to raise enough capital to help his business at the time, and that he would like to have the stock as quickly as possible, and he would pay for the expense of the transportation of the securities from Miami to New York, and that he needed the stock as quickly as he could get it.

Q What expense was that, this transportation expense?

A Whatever the airline costs were, or whatever the man had to spend to get to New York. I don't recall the amount of money involved.

Q You mean a man was going to fly from Miami to New York to hand deliver the stock, is that what you are saying?

A Yes.

Q Do you recall any further conversation at that

discussion with Mr. Gardner?

A I recall that he requested that the stock not bear any kind of stamp on it, although he would sign an investment letter, and we complied with his request.

Q What kind of stamp are you referring to?

A Well, sometimes investment stock has a stamp that says "This stock is investment stock and it cannot be sold, hypothecated, traded, unless it is registered by the Securities and Exchange Commission."

Just a stamp that is put on the stock so that a bank or a transfer agent or a brokerage house knows that it is not tradeable stock and knows that it is investment stock.

Q Do you recall any further conversation at this meeting with Mr. Gardner?

A I am sure we had some other social conversation, but I don't have a good memory as to what else other than the deal that I just outlined.

Q Was there any discussion as to the price at which Mr. Gardner was to buy the stock?

A Yes. I think it was $5,000, but I am not sure. I think it was some nominal amount.

Q For how many shares?

A 50,000.

* * *

THE COURT: Is that so, Mr. Wohl? Do we need the rest of that book?

MR. WOHL: Could I have a moment with Mr. Robson?

THE COURT: All right.

(Pause.)

MR. WOHL: Your Honor, I think we have come to an agreement, and, therefore, the Government will only offer the page that is marked as Exhibit 176B for identification. It is stipulated, however, that on other pages--

MR. ROBSON: We will stipulate it is Mr. Feiffer's checkbook, that his handwriting appears on other pages in the book, and that other persons handwriting also appears in that book, on other pages, as well as on this page.

MR. WOHL: That's right.

* * *

Q Did there come a time when you heard of a company named Diston Industries?

A Yes.

Q When was that?

A When Mr. Feiffer received a letter announcing the dividend. I saw the letter when it came into the apartment in New York and I think the mail was addressed to him at the apartment and that was sometime around the same period, in '69.

Q Did you ever see any Diston Industries stock?

A Yes, I did.

Q In whose possession were those stock certificates?

A In my possession, or in the possession of Mr. Rubinson and myself, in our vault.

Q From whom did you receive those Diston Industries stock certificates?

A I don't recall. I either got them from Mr. Feiffer or Mr. Rubinson. The stock was in Feiffer's name and I am not sure who had the stock, but I received it from either one of the two -- I have to correct that --

MR. WOHL: Your Honor, may we approach the bench for a moment?

THE COURT: Yes.

(At the side bar.)

MR. WOHL: Your Honor, if I am not mistaken, just before I stopped, the witness was about to say that he wanted to correct something and what I think he may want to correct is he wants to correct when he said the stock was in Mr. Feiffer's name, which is really in Lockwood's name.

I didn't ask the witness whose name that stock was in and I don't intend to bring out that it was in --

MR. ANDREWS: I have no objection. I don't mind if he does.

MR. WOHL: All right, that avoids the problem.

(In open court.)

Q Mr. Stein, you were about to say you wanted to correct something?

A Yes. I am not sure how I got that stock. It is not clear in my mind. I have to say I don't know if I got it from Rubinson or Feiffer or how I got it. I remember buying some of the stock from somebody and I remember buying into the stock, but I am not sure how I got the stock, and it is not correct for me to say that I got it from either one of them, because that is not my best memory.

Q Did there come a time when you heard of transactions in Diston Industries stock in the names of Mr. Hochen, Weitzman, Mr. Feiffer and Mr. Silver?

A Yes.

Q Do you recall whether you heard of those transactions?

A I heard about those transactions when the four of them agreed to sell the stock to the charity, the same charity I described yesterday.

Q This is B'Noth Jerusalem?

A Yes.

Q From whom did you hear about that?

A I don't remember if I heard it from Feiffer or from Rubinson or from -- I just know about it, I don't remember how it was told to me or if I saw the papers when it was being done.

I think I discussed it with Mr. Rubinson and we decided that the charity would buy the stock rather than Feiffer buying the stock from the other three people.

Q Was anyone else present when you discussed this with Mr. Rubinson?

A I think Mr. Rubinson, Mr. Feiffer and myself discussed it together, but I think that Mr. Rubinson and I more or less agreed that the charity would buy it rather than Feiffer.

Q Mr. Stein, other than the understanding with the Government that you referred to yesterday, concerning

future prosecutions involving you, have you ever had any form of immunity before that understanding?

A Yes.

AFTERNOON SESSION

1:45 p.m.

* * *

S I D N E Y S T E I N, resumed:

THE COURT: All right, Mr. Rubinson, do you have any cross-examination of this witness?

MR. RUBINSON: Yes, Ma'am, I do.

CROSS-EXAMINATION

BY MR. RUBINSON:

Q Mr. Stein, you testified yesterday that you had a

md:mg 2 825a Stein - cross

deal with the Government that you wouldn't be prosecuted on any crime you have done before, and that you debriefed yourself to the Government.

What do you mean by "debriefing?" Will you tell the jury?

A I described to the Government all securities transactions that I have had and gave them the list of all the stocks that I bought and sold and traded in, going back to 1970.

Q Going back to 1970?

A Yes, 1969 - 1970.

Q In other words,you did not tell them about any crimes that you may have committed prior to 1968 or 1969, the question in this case of a time period, is that true?

A I told them about all the stocks that I had traded that I could recall over all of the years, and the stocks primarily that we discussed were the stocks where the statutes were still alive.

Q Only if the statute was alive. In other words, you are leading this Court to believe that you have committed crimes that are out of the statute of limitations which you did not discuss with the U. S.Attorney?

A No, I discussed all of the things that I have done with him going back to 1960.

Q Okay. Very good.

Mr. Stein, how long do you know me?

A Since 1959 or so.

Q What was the first crime you committed in 1960 that you debriefed yourself with the U. S. Attorney?

A I told him about the Buckeye case--

Q Just one at a time.

Is that another case including the Buckeye or just the Buckeye firm?

A I told him about the Buckeye case, which resulted in a court case.

Q One minute.

What did you tell him about the Buckeye case?

I will ask the questions. You respond.

What did you tell him about the Buckeye case?

A I told him that I went to trial on that case --

Q What did you tell him you did in the case?

A That I manipulated the stock

Q What else did you do besides manipulation in that stock?

MR. WOHL: Objection, your Honor. That is the case that I believe resulted in a conviction, and the Government would submit that there is no point here in going into the details of all of the activity that occurred

in that other case.

We have established that there was a conviction. I think that is proper in court.

THE COURT: Yes.

MR. RUBINSON: Yes, what? I don't understand that.

THE COURT: If the witness has been convicted of a crime, you can bring that out, and that is all that you can bring out about that matter.

You can bring out that it was a stock fraud case, that he was convicted.

The details of the case you cannot go into.

MR. RUBINSON: Okay.

THE COURT: With respect to other matters, you may go into those if they tend to reflect upon the witness' truthfulness or untruthfulness.

MR. ANDREWS: If it please the Court, not to interrupt, but is it permissible, your Honor, in this line to go into the manner in which the defendant has manipulated not stock, but people, in other cases of which the cross-examiner may have knowledge in a way in which it may be alleged he manipulated people in this case? If a pattern can be shown and is probative?

THE COURT: I was about to instruct Mr. Rubinson,

who is a non-lawyer, as to the matters into which he might inquire on cross-examination, Mr. Andrews.

MR. ANDREWS: Thank you, your Honor.

THE COURT: Now, as I was saying, Mr. Rubinson, insofar as the matters go to the witness' ability to tell the truth, you may inquire into those other matters which have not been the result -- which have not resulted in a conviction. As I have said, with respect to those matters which have resulted in a conviction you can bring those out.

You can ask him what the crime was, as to when he was convicted of it, but you cannot go into the details.

With respect to other matters which have not resulted in conviction, insofar as those matters go to truthfulness, the witness' ability to tell the truth, you can go into those matters and ask him about those.

Do you understand?

MR. RUBINSON: Yes, ma'am.

THE COURT: You can also ask him, as you started to, about any agreement he has with the Government with respect to prosecution in the future, or any promises made to him by the Government with respect to future prosecution.

Do you understand?

MR. RUBINSON: Yes, ma'am.

THE COURT: All right.

Q In the Buckeye case in 1960, you were convicted,

you said, is that right?

A I was convicted in 1971 or '72.

Q What happened in that conviction?

MR. RUBINSON: Am I allowed to inquire into that, your Honor?

THE COURT: He said he has been convicted. You can ask the nature of the case.

MR. RUBINSON: I want to know what was the sentence?

THE COURT: You go ask him the charge.

Q What was the charge?

A I was convicted of conspiracy and fraud, one count.

Q What was the disposition of that case?

A I was sentenced to two years.

Q Did you do any time on that case?

A Yes, I did.

Q Where did you do the time?

A Springfield, Missouri.

Q In what type of a facility?

A A Federal prison.

Q In what type of a facility in the Federal prison?

A I don't know what you mean.

Q I don't know if it would be proper to ask you, but you can answer if it is, was it in a psychiatric ward in Springfield, Missouri?

A No, I was in -- I'm trying to think of the best way to describe it. I was in a -- I was in a special section of the prison where they kept prisoners that were testifying in cases.

Q In other words, you were held in protective custody in Sprinfield?

A I was held in protective custody.

MR. CHESTER: I didn't hear him. He said he was held in protective custody.

THE COURT: Yes.

Q In Springfield?

A Yes.

Q Was it your claim then that somebody was trying to harm you for testifying?

A Yes.

Q Who was trying to harm you? Who did you claim was trying to harm you for testifying?

A I think you better ask the Government that.

Q I can't ask the Government. You are on the witness stand.

MR. WOHL: May we approach the bench?

THE COURT: In other words, you made no claim, is that your answer?

THE WITNESS: NO, I had gotten threats and the Government was aware of them.

MR. WOHL: May we approach the bench, your Honor?

THE COURT: Yes.

(At the side bar.)

THE COURT: Gentlemen, please keep your voices down.

MR. WOHL: Your Honor, first, the Government does not object to this question, but I expect that this could bring out something that the other defendants might not particularly want brought out, and that is that the figures that Mr. Stein testified against in the Imperial case, and possibly some of his other activities, have been related to law enforcement activities directed against organized crime figures, and I thought I should bring that to the Court's attention because there may well be an answer along that line coming out here if this line goes any further.

I am not going to object to it but I am giving Mr. Rubinson the opportunity to withdraw the question.

MR. RUBINSON: I don't want to withdraw the

the question.

THE COURT: Just a minute, Mr. Rubinson.

I didn't hear what you said.

MR. RUBINSON: I don't want to withdraw the question.

THE COURT: Where are we going with the question?

MR. RUBINSON: We are going step by step to show that this man will do anything as to his mode of testifying against anybody --

THE COURT: I know that, but this particular question we are now talking about, I know what you want to do, you want to show that he will testify to anything, isn't that it?

MR. RUBINSON: Yes, ma'am.

THE COURT: We went over that before lunch so we all understand that.

MR. RUBINSON: But --

THE COURT: Just a minute. We have to rule on particular questions, and this question which you are putting to him, what do you want to bring out?

MR. RUBINSON: I want to bring out in the Imperial investment case, I want to bring out this case to show what this man did with B'Noth Jerusalem in that case, which is a big thing to me, B'Noth Jerusalem is supposed to be my

nominee, it never was, it is his, and I am going to bring it by bringing it out through the Imperial investment case.

THE COURT: That wasn't the question before the witness.

MR. RUBINSON: I want to bring it out.

THE COURT: The question before the witness is whether he claimed he was threatened which resulted in his being in protective custody. That's what we are talking about now.

MR. RUBINSON: But that's not the truth. He led me into that. He was there because I took him to the psychiatrist and that's why they put him in isolation, not because of a threat.

I am trying to discredit this witness by if he answers that then I am going to say about the psychiatrist and how that happened, and why he got into isolation.

This man is a liar, and I am going to prove it.

THE COURT: Just a minute. He discussed with you how he was going to say to the Government that he was threatened so they could put him in protective custody?

MR. RUBINSON: No. I took him to the psychiatrist I got him into the hospital, I got him into Springfield. I was there.

THE COURT: So you know that he was feigning.

Is that what you are saying?

MR. RUBINSON: Yes.

THE COURT: That is what you want to bring out?

MR. RUBINSON: Yes.

MR. ANDREWS: We have no objection to bringing out his Mafia connections in any way whatsoever, and if anyone disagrees --

MR. RUBINSON: That's right. Of course that has to do with Phil Kay in this case. I've got to do that.

THE COURT: All right.

(In open court.)

MR. RUBINSON: Mr. Reporter, would you read the last question please so we can get a response from the witness?

(Record read.)

Q Would you answer that question, please.

A I don't know who it was. There were threats that had come in on the telephone.

MR. ROBSON: I can't hear, your Honor.

THE WITNESS: I don't know who the people were. There were threats that had come in on the telephone.

Q In other words, you are testifying now that you don't know, a year and a half ago, two years ago, who threatened you, but your recollection is very vivid in 1960, all the way through '74, is that correct?

MR. WOHL: Objection. That is not what he said.

THE COURT: Well, he said that he did get calls--is that your testimony?

THE WITNESS: Yes, your Honor.

THE COURT: You don't know who was calling you, is that your testimony?

THE WITNESS: Yes.

Q When you were in that facility in Springfield, Missouri, were you in isolation?

A Yes.

Q Did there come a time when you met in the prison a Carmine Lambardosi?

A Yes.

Q What did you discuss with Carmine Lambardosi?

MR. WOHL: Objection.

THE COURT: Sustained.

Q Do you know Carmine Lambardosi, who he is?

MR. WOHL: Objection. I don't see any relevance to the various people Mr. Stein met in prison.

THE COURT: Yes, sustained.

MR. RUBINSON: I am at somewhat a disadvantage because I don't know how to bring out the questions, but I am going to try my best.

Q Let's skip over Carmine Lambardosi, because we have others I want to get to.

That was in 1960. What case did you tell them subsequent to 1960, about what crime you committed after 1960?

A I gave a list to the Government and if you inquire from the Government, they will give you the list. I don't remember the name of all the stocks--

Q Maybe I can have the Government refresh your memory --

A I am not finished, sir.

MR. RUBINSON: Would you furnish me with a list?

MR. FISCHETTI: I think that would be 3500 material, your Honor, if such a list exists. I think we were entitled to that before commencing cross examination.

MR. WOHL: I think Mr. Stein has one list. I don't know whether he is saying there is another list.

MR. HIGGINS: He just testified he gave it to the Government.

THE WITNESS: I don't have it with me.

THE COURT: This is a piece of paper listing matters which you gave to the Government?

THE WITNESS: Yes.

MR. WOHL: These would be the results of debriefings of Mr. Stein on other crimes, not the Sern-Haskell case. The Government would submit that, in any event, that is not 3500 material.

THE COURT: All right.

MR. ANDREWS: If it was during the discussion of the agreement that he reached with the Government regarding his testimony in Stern-Haskell, what he would exchange for giving the testimony the Government wanted, then I think it does have relevance in the case and we ought to have an opportunity to examine it.

THE COURT: I believe that the witness' testimony

has indicated that he was made promises by the Government with respect to any criminal matter which is not now barred by the statute of limitations. Anything which he told the Government about before 1969 is barred by the statute of limitations and, therefore, he is not giving up anything in exchange for his testimony here.

In other words, he has not been promised anything of value in exchange for his testimony here that he would not be prosecuted; he could only be prosecuted for crimes which are still within the statute of limitations.

You can ask him about those matters --

MR. RUBINSON: That is not my only point. I want to test the credibility of this witness. This is not the point whether he can be tried for previous crimes, the point is, is he credible or is he not?

THE COURT: Let me say this, then, to clarify the matter --

MR. ROBSON: May I request your Honor to look at 3682 which is the document embodying the understanding between the witness and the Government and what it says about his debriefing on prior crimes, because it doesn't limit it to prior crimes not barred by the statute of limitations.

The agreement is that he will get immunity if

he testifies about all crimes about which he has any knowledge or in which he participated -- all crimes -- and we should be entitled, therefore, to learn about all the crimes --

THE COURT: They are not listed in the document?

MR. ROBSON: All the document simply sets forth in five numbered paragraphs the agreement one of the numbered paragraphs says that Stein must cooperate in the future including undergoing a total debriefing by this office, including every crime he knows of or has participated in.

We are entitled to ascertain what crimes he debriefed himself of pursuant to that agreement and whether he in fact did debrief himself of all crimes, it seems to me.

THE COURT: It seems to me that the witness then, according to what you said, has agreed to tell the Government about any crimes he has been involved in going back to 1960, is that what you are saying?

MR. ROBSON: There is no date limit. This goes back to any time during his life and it is significant in terms of his motivation to testify--

THE COURT: Just a moment. That fact can be brought out, and it is now brought out, and the witness, I

believe, testified to that on direct examination, that he has agreed to debrief the Government with respect to all matters in which he has been involved. The issue now before us is the extent to which on this cross examination on the matters, other than convictions, may be inquired into.

The Court's ruling is that you can inquire into any matter going back to 1969, which matter may relate to the witness' ability to tell the truth or reflect upon his credibility.

You may not inquire into any matter which precedes 1969, but you may bring out, as has already been brought out, that in addition to those matters the Government asked the witness to tell about all matters in which he has been involved, but the cross examination is going to be limited to conduct which goes back only to 1969.

With that understanding, you may proceed.

MR. RUBINSON: 1968 is the year in question, your Honor. We are talking about Stern-Haskell in 1968.

THE COURT: Well, '68, let's change it to '68, nothing beyond '68.

MR. CHESTER: Nothing before 1968? 1968 on?

THE COURT: That's right. You may inquire into any matters in which this witness may have engaged, any

conduct, back to 1968.

MR. ROBSON: I am not sure I made myself clear, your Honor. Your Honor is ruling on the theory that this questioning is being done for the purpose of attacking this witness' credibility, and while it has partly that purpose, more importantly, it has the purpose of establishing this witness' motivation to testify. If he advised the Government of 15 serious crimes occurring from 1960 to 1965, some of them possibly still continuing in conspiratorial fashion, this would be very significant, because if those crimes were called to a Court's attention on a sentence, that would be significant.

If he concealed those crimes from the Government, it would be significant in terms of the kind of a person he is and we have a right, it seems to me, to bring out everything that he told the Government. If he committed murder, and I am not suggesting he did, in 1962 and didn't tell the Government about that, certainly we should be entitled to bring that out because certainly that would have a bearing on the kind of arrangement the Government would have made with him.

THE COURT: All right, the Court's ruling again is that you may inquire as to any matter between 1968 and the present.

BY MR. RUBINSON:

Q Mr. Stein, let's start with January 1968. What crimes did you commit in 1968, starting with January, month by month?

A I would have to go to a list, which I don't have with me.

Q It is a long list? You can't remember all the crimes you committed?

A I maintain that any stock that I bought or sold, whether it was on the American Stock Exchange, New York Stock Exchange or over the counter, I did something criminally wrong in every one of those stocks.

Q How many stocks were involved?

A Every stock that I have ever traded.

Q Quantity, how many, 250 --

A Hundreds, two, 300 stocks.

Q You always say five, ten, 15, 20, thousand dollars, two, three, 4,000 -- how many?

A I don't know.

Q Let's get the list.

MR. RUBINSON: I would like to go over the list before I resume because I have a list and I want to know what is on his list that he left out, because I have a list. I would like to see that list.

MR. WOHL: Your Honor, it seems to me the proper way to do this is for Mr. Rubinson to inquire whether Mr. Stein talked about particular stocks and Mr. Stein can tell him. Then if there is any discrepancy to be cleared up, we can do that at a later time.

MR. FISCHETTI: Your Honor, the witness has testified that he did commit crimes with reference to stocks, that those crimes are contained in a list and that list is in the possession of the Government and in order to assist his recollection, in order to answer Mr. Rubinson's questions, he is going to need that list.

THE COURT: Do you have such a list, Mr. Wohl?

MR. WOHL: Unfortunately, your Honor, I don't have the list he is talking about.

THE COURT: To whom did you give the list?

THE WITNESS: To Mr. Doonan.

Q Mr. Who?

A Mr. Doonan.

Q Who is he?

THE COURT: Do you know Mr. Doonan?

MR. WOHL: Yes, your Honor. We will seek to get the list as soon as we can, but it seems to me the appropriate way to go through this is for Mr. Rubinson -- he says he has a list, why doesn't he put the questions and--

THE COURT: Do you have the list?

MR. RUBINSON: I don't have 250, I have about 60.

THE COURT: Well, ask him about those. Show him the list and ask him about those.

Q In 250 crimes you said you committed, was I your partner in 250 crimes?

A No, you were not.

Q These happened in 1968, 1969 and 1970, is that correct?

A Yes, and '71 and '72.

* * *

Q And it is your testimony now that I was not your partner in 1968 and 1969 in 250 crimes, but I was your partner in one specific deal called Stern-Haskell, is that right?

A That is correct.

Q Did you offer a partnership in those crimes to me -- in some of those crimes?

A Yes.

Q Did I accept that partnership?

A No, you did not.

Q I did not.

Was B'Noth Jerusalem involved in any of these crimes with you?

A In some of them.

Q Was I involved in B'Noth Jerusalem in some of those crimes with you except to the ones allegedly mentioned here?

MR. WOHL: Objection.

Whether Mr. Rubinson was involved in these other crimes is irrelevant. The Government is not charging him with these other crimes.

I thought he was going to ask Mr. Stein whether he told the Government.

THE COURT: Ask Mr. Stein about his conduct.

You are not charged with anything else.

Q Do you know a Max Dreyer?

A Yes.

Q Who is Max Dreyer?

MR. WOHL: Objection.

I don't see where this is relevant.

MR. RUBINSON: This is one of the crimes and I want to find out if he knows about it.

MR. WOHL: He should just put the question to him.

THE COURT: I will let him answer the question.

The question is, do you know Max Dreyer?

A Yes.

Q Who is Max Dreyer?

A He is a man that was in a company called Allura Fashions.

MR. CHESTER: I can't hear the witness.

A He was a principal in a company called Allura Fashions.

Q Did there come a time in 1968 or 1969 when Allura Fashions merged with a company on the New York Stock Exchange called Athlone Industries?

A Yes.

Q Do you know Sidney Estridge?

A Yes.

Q Is he a director in Athlone Industries?

A Yes.

Q Was he instrumental in pushing through the deal so you can get $120,000 commission and kick back $60,000 to him?

A Yes.

Q Did you tell the Government about that one?

A Yes, I did.

Q So that was a crime?

A That was not a crime, that was a commission.

Q The kickback was a crime?

A No, it wasn't.

Q Was the man a director of the company?

A It wasn't a crime of mine; it may be a crime of his.

Q Why did you confess to a crime that was not yours?

A I didn't confess to that.

Q You will confess to anything?

THE COURT: Don't argue with the witness.

MR. RUBINSON: He is arguing with me.

THE COURT: Mr. Rubinson, please let the witness answer the question. Don't cut him off and don't argue with him.

You may ask him questions but you may not argue

with him or make comments.

A Can I answer that question?

Q We will go to the next one.

All right, it wasn't your crime; it was Sidney Estridge's.

Do you know a company named Bougerie?

A Yes.

Q What did you do wrong in that?

A Manipulated the stock.

Q What else did you do?

A I told the Government all about it.

Q Tell me about it.

A I don't know if I want to go into the details of it.

Q You want to take the Fifth Amendment, go ahead. You can say "I refuse to answer on the grounds it may tend to incriminate me, my uncle, my brother whatever" --

MR. WOHL: I object to Mr. Rubinson giving legal advice to the witness.

Q You don't want to go into it? You committed a crime, we won't go into it, okay. I'm with you. I don't want to go into anything you don't want to go into.

MR. CHESTER: May I ask this: Would Mr. Stein please bring that piece of paper he has tomorrow because

I happen to not know about all these crimes and he is still going to be on the stand all week, or at least two hours per person?

Tomorrow could you ask him to bring the list on the old grocery box he found on the terrace two and a half years ago?

THE COURT: We will take that up lager. Remind me later.

MR. CHESTER: Thank you.

Q Do you know a company called Cabot Knitting Mills?

A Yes.

Q Did you report that crime?

A Yes, I did.

Q What did you do in that crime?

A I recommended the stock and manipulated the stock.

Q That's wonderful.

Did there come a time when they spun off a company?

A Yes.

Q What was the name of that company that they spun off?

A Cadillac Knitting Mills.

MR. ROBSON: I can't hear, your Honor.

A Cadillac Knitting Mills.

Q What did you do in that deal?

A I manipulated the stock.

Q What else did you do?

A I don't know what you mean.

Q Did you own spin-off stock in that company?

A Yes.

Q What did you do with the stock?

A I sold it and I still have some.

Q You sold it?

A Yes.

Q You got the money for it?

A Yes.

Q You knew it was spun-off, right?

A Thatis correct.

Q Did you call that a crime when you reported it to the Government, that particular segment of the spun-off stock -- did you tell the Government that was a crime?

A I told them about the company.

Q No, no. Did you tell them that it was spun off?

A I don't know if it is a crime or not.

Q What?

A I don't know if it is a crime.

Q You didn't tell them that part?

A I didn't say that.

Q Did you tell them you sold the spun-off stock?

Answer yes or no.

A Yes.

Q You did tell them you sold spun-off stock?

A Yes.

Q Did you tell them that was one of your crimes?

A Yes -- no, not selling the stock, that is not a crime.

Q Selling spun-off stock is not a crime. Good.

MR.WOHL: I object to Mr. Rubinson's comment.

MR. RUBINSON: It is hard for me to get this man, he is too smart.

THE COURT: Mr. Rubinson, I asked you not to comment as you go along.

MR. RUBINSON: All right, I will try not to, your Honor. I am learning. Okay.

MR. WOHL : I object to Mr. Rubinson's comment that he is learning.

MR. RUBINSON: Why, do you think I am accomplished?

Q Do you know a man called Jerry Jaeger?

A Pardon me?

Q A man named called Jerry Jaeger?

A I think so.

Q Leonard Kagan?

A Yes.

Q Phil Kaye?

A Phil Kaye?

Q Yes.

A Yes.

Q Did you tell him about Allura Industries?

A Yes.

Q What did you tell him about that?

A That I manipulated the stock and I closed out the underwriting.

MR. ROBSON: Did what?

A I closed out the underwriting.

Q What does that mean?

A I finished the distribution.

Q How much did you get in cash under the table? I was there. How much?

A About $20,000 or $30,000.

Q How about $50,000?

A I think you are incorrect.

Q How about you gave $20,000 to Phil Kaye, you don't remember that? That means when you testified here yesterday--

THE COURT: Do you want him to answer the question?

MR. RUBINSON: He don't answer. He sits there

like a dummy. I was there and I was not his partner--

THE COURT: The question is whether he gave Phil Kaye $20,000?

MR. RUBINSON: Yes.

Q Isn't it true that--

THE COURT: Is that right or wrong?

A I did not give Phil Kaye $20,000.

Q Isn't it true that is where you met Phil Kaye, not in the Stern-Haskell deal?

A That is not true.

Q YOu didn't tell the Government about it, right, that you gave Phil Kaye $20,000?

A I didn't give him $20,000.

Q Did you tell the Government, yes or no?

MR. ANDREWS: May we have the date?

A You are drawing a conclusion.

Q I am asking a simple question --

THE COURT: Yousaid you did not give Phil Kaye --

THE WITNESS: That's right.

MR. RUBINSON: I asked him if he told the Government he didn't give Phil Kaye-- in his debriefing, whether he told the Government that was part of his crime.

MR. WOHL: I object.

THE COURT: Told the Government about any crime

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he committed--

MR. RUBINSON: With this Phil Kaye, who is going to be a witness here too.

THE COURT: You asked him if he told the Government that he did not do something and I am telling you that what has been represented here by the Government is that he told the Government about any crimes which he committed, not about things he did not do.

MR. ANDREWS: May we have the date, your Honor, on this Allura?

MR. RUBINSON: April 1969.

MR. ANDREWS: From the witness.

MR. RUBINSON: Oh, I'm sorry.

Q Did there come a time in 1968 and in 1969 there was a company called House of Knitting?

MR. WOHL: I object, your Honor, and I ask that Mr. Rubinson's comment just a moment ago be stricken, particularly since he is not going to ask the wintess a question and he attempted to make a statement of fact which obviously was within the hearing of the jury, and I ask it be stricken from the record.

THE COURT: The date?

MR. WOHL: Yes.

THE COURT: What was the name of that company?

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MR. RUBINSON: House of Knitting.

THE COURT: No, the one before that.

Q What was the date of Allura?

A I don't recall.

Q I f I show you the prospectus, would that refresh your memory?

A Yes.

(Pause)

A April 1969.

Q Did you tell the Government, did you debrief yourself on the House of Knitting?

A Yes.

Q Who was the principal in the House of Knitting?

A Morris Gluck.

Q Is that the same Morris Gluck that testified yesterday that represents B'Noth Jerusalem?

THE COURT: Who testified yesterday-- that this witness testified about?

MR. RUBINSON: Yes.

Q That you testified represents B'Noth Jerusalem?

A Yes.

Q What did you do in House of Knitting? If it wasn't your crime, you can tellus about Morris Gluck, and so forth. What did you do?

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A I made an arrangement with a man by the name of Ray Adiel and I gave him an option on my stock and he in turn gave an option to a broker in Miami by the name of Ferman & Company, and I have told the Government all my dealings in that stock.

Q What dealings did you do-- to digress one minute, that the Ray Adiel who told you Weitzman wanted to blackmail you?

MR. WOHL: Objection, your Honor. This is an entirely collateral matter, there is no evidence of it in the record at this point and obviously all we are getting is some claim by Mr. Rubinson while he is pretending to be his own lawyer.

THE COURT: While he is what?

MR. WOHL: Acting as his own counsel.

We are getting some claim on this whole collateral matter.

MR. RUBINSON: I don't think it is collateral because this gentleman and I were there with Mr. Weitzman and with Mr. Adiel.

MR. WOHL: Again we are getting another attempt to make a factual statement while Mr. Rubinson is acting as his own attorney, and I request that Mr. Rubinson be instructed not to do that.

THE COURT: You are asking this witness now about some other crime in which he participated, is that it?

MR. RUBINSON: Right. Exactly.

THE COURT: All right. Youcan put the question to him then. Rephrase the question and put it to him again.

Q Is that the same Ray Adiel that you discussed with me that Weitzman approached in a bank to blackmail you and me?

A That's correct.

Q That's correct.

MR. WOHL: I will object to that and move to strike it. We are getting now some kind of double hearsay statement about what somebody told the witness happened and obviously there is no purpose here to offer this related to the impeachment of this witness because it is being told about some other crime.

THE COURT: This is something Weitzman told the witness, Mr. Rubinson?

MR. RUBINSON: No, Weitzman - - you see, Ray Adiel-- let me get the story straight here so we will understand it.

Ray Adiel, Mr. Stein just said, helped him in a crime to manipulate the stock of House of Knitting.

I want to identify who Ray Adiel is. That's all.

MR. WOHL: I don't see how that -

THE COURT: Ask Mr. Stein about crimes committed by him, Mr. Rubinson.

Don't ask him about crimes committed by somebody else.

MR. RUBINSON: No, Ray Adiel did not commit the crime and the blackmail.

THE COURT: Did Mr. Stein?

MR. RUBINSON: No.

THE COURT: Then don't ask him about it.

MR. RUBINSON: Okay.

Q Ray Adiel made a deal with a brokerage firm in Florida in the House of Knitting deal, is that correct?

A Yes.

Q How much was he going to pay them a share; where did the stock start and where did it fly out the window to?

A I think I gave him the option at $6. I'm not sure of the amount.

Q When you started to work on the stock, at what price did it start out?

A I don't recall.

Q Where did it end up?

MR. WOHL: I will object to the details of all these things. The witness has said--

MR. RUBINSON: This is very important. We are in an alleged stock manipulation case here where we have testimony from witnesses that the stock did not go over $4, and I can prove through this witness taking stock up to $20.

THE COURT: Just a minute, Mr. Rubinson.

I am going to permit the witness to tell us, if he can remember, where it ended up-- that is, with respect to how high it went in the market.

Is that it?

MR. RUBINSON: That is exactly what I mean.

THE WITNESS: What is the question?

THE COURT: How high did that particular stock go as a result of the manipulation, is that the question?

MR. RUBINSON: That's right.

THE WITNESS: As a result of my manipulation?

A Yes, I gave him a stock option at $6.

What they did with it after that I didn't do, they did.

Q Then you didn't commit a crime?

A Yes, I did.

Q By doing what?

A By giving the broker an option as an incentive.

Q Is that a crime?

A I think so.

Q You are not sure, you only think so?

A I am sure it is a crime.

Q What I am just trying to say, even though you were not sure-- answer yes or no-- you told the Government anyway in case it might be some other time they might find out, is that right?

A I told the Government as much as I --

Q You made sure you told them?

A Do you want an answer, or do you want an answer to the question? We will change chairs.

Q I'll change with you. It will be my pleasure. Only I wouldn't do what you are doing.

A What is that sir?

THE COURT: Just a moment. Just a moment, Mr. Rubinson. Do you want to put questions to the witness?

MR. RUBINSON: Yes. He doesn't want to answer. He is argumentative.

THE COURT: Or do you want to make comments and argue with the witness?

MR. RUBINSON: He is arguing with me. I am asking him a question. He doesn't want to answer it.

THE COURT: He answered your question, and then when he didn't answer it apparently the way you wanted it answered, you went on to argue with him about whether it was a crime or not.

He told you it was a crime.

MR. RUBINSON: I would like it read back. He said he wasn't sure.

THE COURT: Then he told you that somebody else ran the stock up after he gave the option at $6.

Now, let's proceed from there.

MR. RUBINSON: Okay.

Q Is there a stock called Viking General on the American Stock Exchange?

A Yes.

Q What did you do with that stock?

A I manipulated that stock.

Q From what base to what top?

A I worked on that stock for ten years, so I don't

know what--

Q Ten years ago, what was the low?

THE COURT: We are going back now to 1968.

Q In 1968 what was the low on that stock?

A $1 or $2.

Q When you got through manipulating it in 1969, what did it end up at?

A 1969?

Q Yes. In the secondary.

A $8 or $9 or $10. I am not sure.

Q Isn't it true the secondary came out at $26?

A That was 1973, Mr. Rubinson, or 1972.

Q Were you still working on that stock at that time?

A In 1972?

Q Yes.

A Yes.

Q So you took the stock from $6 to $26; is that true?

A No, it is not.

Q Will you tell me what is true?

A I don't know what I took it to. I worked on the stock for ten years at different states.

Thomson-McKinnon became the broker for the stock and I don't want to give myself all the credit you want to

give me.

Q In order to help do an underwriting for Viking General, did certain brokers go short the stock prior to the distribution?

A I think so.

Q So that the jury will understand that, will you tell them what means going short the stock, and then when the distribution comes out, how they make money both ways?

A I don't know what you mean.

Q Well, if you go short the stock, that means you sold the stock before you received it, is that correct?

If you sell a stock short at $24 and you buy it in an underwriting at $28, did you make $4 besides your commission?

A Are you asking me about a hypotehtical question?

Q Hypothetical, and then I will come back to the Viking.

A You mean if you sell something at $24 and it goes to $28, you lose.

Q All right.

A You don't win.

Q Excuse me, let's reverse it.

A Let's reverse it.

Q Right. If you sold it short at $28, when you

took it up to $28 and then you bought it in at $24, what happened?

A If I did?

Q Yes.

A I didn't do any such thing.

Q Did anybody do anything like that in the Viking stock?

A I don't know.

Q Are you sitting here and telling me now that you didn't tell the Government that Tessel, Paturick & Ostrau, Mr. Phil Lane did not go short that stock to his customers and then buy it in at a lower price?

A I told the Government about Mr. Lane's activities in Viking. I don't recall him doing any such thing. If you have a better memory than I have --

Q What about Mr. Lane's activities in Viking?

THE COURT: Here you go again asking the witness about somebody else' criminal activity.

Ask him about his own.

MR. RUBINSON: He directed this criminal activity so he was a conspirator, so it is not somebody else's, it is his, because he started the conspiracy.

THE COURT: Ask him what he did in connection with that.

Q What did you do in connection-- you testified just two minutes ago that people did go short the stock prior to the underwriting?

A I am not hearing you.

Q You testified a few minutes ago that people did go short the stock, brokers went short the stock prior to the stock coming out, is that right?

Did you ask any of those people to do it?

A I don't recall.

Q You don't recall?

A No.

Q Ever ask anybody to do it?

A I don't recall the incident you are referring to.

Q In the Viking General, did you tell them how much stock you got for rigging that stock from the company?

A Yes.

Q How many shares did you get?

A 10,000.

Q How much did you sell that stock for?

A I didn't sell it at all.

Q All right. How much stock did you have in Viking General?

A At what point?

Q In 1969?

A I don't know how many shares I had in 1969.

Q On November 5, 1970, how many shares did you have?

A I don't remember on what specific date I owned how many shares.

Q I will show you your affidavit filed in the SEC, and I will let you read the amount to the Court.

I don't want to misrepresent how many shares you had.

(Handing to witness)

A I had 38,000 shares in 1970.

Q 38,000 shares. How much was that stock sold for?

MR. WOHL: Your Honor, I am going to object to this. It seems to me--

MR.RUBI NSON: I want to know if he told the Government, this is part of his crime, how much he took in on that stock or he didn't take in.

MR. WOHL: The Government would sumbit there is no point in going into all of the little details of each of these stock transactions that fall into this same category.

The witness has already told us there are quite a few of these, and it would seem that the purpose is adequately served if a general description is given rather than

this detailed account of each one of them.

MR. HIGGINS: If I can be heard, basically all Mr. Rubinson wants to establish is how much money Mr. Stein made.

That is not getting into the details.

MR. RUBINSON: We will get to the vault, don't worry. I will get into it.

THE COURT: The witness can answer the question, if he knows.

Q How much money did you get for the 38,000 shares of stock?

A I don't know how much I got for the 38,000 shares of stock because I think youare confused with 1970 and 1972. I think that over the years I probably bought and sold half a million or a million dollars worth of the stock at different stages.

If you want to know about 1970, I can't recall. I recall in 1972 --

Q Tell me what you recall in 1972.

A I collected about $240,000 or $250,000 of which I gave you $50,000 by check.

Q You gave me $50,000?

A That is correct.

Q Why did you give me $50,000?

A Because you were my partner in Viking.

Q In how many shares was I your partner?

A I don't recall the exact amount.

Q Why was I your partner in Viking General?

A Because we had exchanged a piece of land for shares.

Q Okay.

Did you report that as a crime?

A Report what as a crime, exchanging shares for land?

Q Yes.

A Well, I told them it is in the prospectus. I gave them the prospectuses and told them everything that I could remember.

I don't think I told them that I gave you $50,000.

Q You didn't tell them that?

A I may have forgotten to tell them that.

Q Why?

A Just maybe I didn't tell them. I don't know if I did or not.

Q Well, now, we get to Royal Credit Corporation.

What is Royal Credit Corporation?

A Royal Credit?

Q Yes.

A It is a finance company.

Q Where?

A In Florida.

Q Was that stock sold pursuant to an SEC registration?

A No, it wasn't.

Q That stock was sold as an exemption from an SEC registration?

A That's correct.

Q That stock is an intra-state stock, is that true?

A That's correct.

Q Now we will come back to the name Sidney Estridge again. Is he a resident of what state?

A He is a resident of the State of New York.

Q Does he own stock in Royal Credit?

A Yes.

Q How was he permitted to buy stock in Royal Credit, an intra-state deal, being resident not of the State of Florid

A He bought it after it was trading.

Q Did he buy it one year after it was trading?

A No.

Q In other words, he bought it before it so-called came to rest?

A That's correct.

Q So his transaction with you in that particular thing was not legal, is that correct?

A That's correct.

Q Did you report that illegality?

A Yes, I did.

Q Did you hear of a stock called Casabela?

A Yes.

Q What did you do in that stock?

A I helped a friend of mine liquidate some of the stock, and I told the government about pending action in the Dade County courts, and gave them all the information on Casabela.

Q What information?

A I told them about how Value Line ran right up on the prior to the offering coming out, how the writer for Value Line got paid for writing the stock up. I was not an active participant in that stock, I have only privy to the information and supplied it to the government.

Q So there was some crime committed in Casabela, is that correct?

A Not by myself, no.

Q Why did you tell them about it?

A Because part of my understanding was to tell them about any crime I knew, and in being debriefed I told them of anything I knew or participated in.

Q What is Value Line?

A What is Value Line?

Q Yes.

A It is an advisory service.

Q You said that somebody paid somebody in Value Line?

A That's correct.

Q Who was the man who was paid, what is his name?

MR. WOHL: Objection, your Honor, this clearly does not go to any impeachment of this witness but rather what the witness has said about other persons and the government would submit it is improper.

THE COURT: Objection sustained.

MR. RUBINSON: I happened to have been around one time when this man paid somebody in Value Line $15,000. I don't see where that doesn't -- I am trying to attack his credibility. He says he didn't pay the man.

THE COURT: You ask him if he paid the man.

MR. RUBINSON: I am coming to that, if he would only sit down for a minute and give me a chance.

THE COURT: You can ask the witness that question.

MR. RUBINSON: That is why I asked him who Mr. Aiken is.

A I didn't hear you ask me that name.

Q Who is Mr. Aiken?

A A writer for Value Line.

Q Is he the one who got paid?

MR. WOHL: Objection. Mr. Rubinsom seems to be

quite capable of asking the question he wants the answer to whether Mr. Stein made any payments and if so to whom. He seems to want to go back to this other situation where somebody else paid someone else and the government objects to that because it is clearly not relevant to this trial.

MR. RUBINSON: I will tell you why it is relevant, your Honor. This man has been testifying for two days that we have a group. First it was three, you couldn't tell us apart. Now they brought in Harry Silber there is four. You can't tell us apart. This gentleman's testimony yesterday, he said well, maybe I was there, I could have been there, and maybe Rubinson and Feiffer was there, but I don't know. I heard it, but they could have been there

I just want to know what'all this could have been, when they were permitted to put my name into this record when I could have been he wasn't sure I was. I don't know how to object to everything because I sat quiet because you always instructed me get up on cross-examination and ask the questions, and I am asking the questions. I am trying to test this man's memory.

THE COURT: I don't know I am following this. What was the witness' question whether he paid Aiken $15,000.

MR. WOHL: That is the question before us.

MR. RUBINSON: If he said no, that's okay. I am bound by his answer.

THE COURT: Did you answer that?

THE WITNESS: You objected and I am waiting for you to rule.

MR. WOHL: As far as I recall the record, your Honor, the question that Mr. Rubinson claims he wants an answer to is whether the witness paid this $15,000. So far as I can recall, he has not yet posed that question but instead persists in asking about some other transaction where a payment was made by someone other than Mr. Stein.

THE COURT: No, the question to the witness was whether he, Mr. Stein, paid Aiken $15,000. Is that the question?

MR. RUBINSON: Yes, ma'am.

THE WITNESS: With regard to what company?

Q Oh, so -- with regard to any company.

A Yes, I paid him $15,000.

Q With regard to what company?

A Different companies.

Q Which one?

A Five different companies.

Q Give me the list. Go ahead.

THE COURT: Is this since 1968?

THE WITNESS: Yes.

Q Go ahead.

A Associated Foods --

MR. HIGGINS: Could the witness speak up, please.

A Associated Foods.

Q What else? Next?

A First Investors Life Insurance Company.

Q Next?

A Newport.

Q Newport General? Okay.

A I don't remember the other names.

Q Only two more, Sidney.

A I don't remember which ones. I made an arrangement with them on five stocks.

Q I am worried about the other two, Mr. Stein. I wish you would try.

A If I see the list --

Q It worries me when you don't want to remember. I will give you a few more minutes.

A I am not wanting not to remember. I just don't want to give a wrong name.

Q I think we ought to have the list because this gets into very, very sticky areas. I don't think Mr. Stein-- if he searched his memory he will remember everything, and

he has records which I am going to come to in a few minutes that reflect everything, so I just wish he would search his memory a little bit, or maybe Mr. Wohl can help him.

THE COURT: He said he would wait until he got the list, so you can go on to another question. He will answer you when he gets the list so he can refresh his recollection.

Q Let's digress for one minute and get to the records so that we will clear thatup. In your apartment do you have a bookkeeper?

A No.

Q In 1968, 1969, did you have a bookkeeper?

A Yes.

Q What was her name?

A Hilda Shinaman.

Q Did she work at least six hours a day?

A No.

Q How many hours a day did she work?

A She worked part time. I don't know. Sometimes she worked more, sometimes she worked less.

Q Would you say that her average salary was $75 a week?

A Yes.

Q And how much did you pay her an hour?

A I don't remember.

Q Would you say she worked at least half?

A I know she worked three or four hours days every week.

Q Full days?

A Yes.

Q Then that means it was a little more than part time, is that correct?

A Well, sometimes she worked part time, sometimes she worked full time.

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Q Did she keep a record of every transaction in every trade you did?

A Yes.

Q You mentioned yesterday, when they asked you about the payoff to Mr. Kaye, you said five, ten, fifteen, twenty thousand dollars, and they then asked you about the records. Where is the record of that payoff?

A She didn't keep records of my cash business, she only kept records of my stock transactions.

Q Oh. How much did you earn in 1968 on your stock transactions?

A I don't know. I would have to refer to my return.

Q I say approximately?

A I don't remember.

Q In 1969?

A I don't remember.

Q How much did you earn on your cash transactions?

A I don't remember.

Q Either '68 or '69?

A I don't remember.

Q If I said in 1968 you earned more than $500,000 would you say I was correct?

A I don't know.

MR. WOHL: Objection.

MR. RUBINSON: It is relevant to rigging, to manipulation, to credibility, to everything else. Why should you object to the truth?

THE COURT: The question is how much Mr. Rubinson earned?

MR. WOHL: No, I think the question is how much Mr. Stein earned, and the government's position is that while we don't have any objection to going into these various stock manipulations and stock deals some kind of overall gross figure of how much was made, we don't see is relevant. It wouldn't prove anything.

THE COURT: Well, the witness has answered in any event that he doesn't recall, he would have to refresh his recollection from his return. Is that it?

THE WITNESS: Yes.

THE COURT: Proceed.

Q Could you refresh your recollection to know and bring the answer tomorrow?

A No.

MR. RUBINSON: Your Honor, how can I cross-examine this man or have important things if I can't get the cooperation of the United States Attorney? I am sure that he has his tax returns. You have them, don't you?

THE COURT: Mr. Rubinson, you proceed to ask

the witness other matters that he told the government about that he saidwere crimes committed by him.

MR. RUBINSON: I wanted to know in particular whether he told the government on maybe taking in more than a half a million dollars in cash and maybe $600,000 in cash, whether he told the government the full truth and whether or not the government gave him a so-called free pass on income tax evasion. This is what I want to know.

THE COURT: You can ask him if the government gave him any exemption from or immunity from prosecution with respect to his income tax returns.

Q Did the government give you any exemption or immunity from anything on income tax?

A I don't really know, because there is no mention of income tax in the memo, and I don't really know if it is or not but I can tell you that I have been audited up until my last return.

Q I just asked you a question.

A I am answering your question.

Q No, you are not answering.

A I don't know the answer to the question.

Q Okay, you don't know the answer. Maybe I can help you. Did you tell the government about the tax return you filed?

A Yes.

Q And it is your understanding that you have with the government that anything you told them but would not be prosecuted, is that correct?

A Yes.

Q Were you talking yesterday about this Mr. Phil Kaye, you took him down to your vault?

A Yes.

Q And you gave him how much?

A I don't recall the amount.

Q It could have been $20,000?

A Not more than that. Probably less.

Q Was that vault in your own name?

A Yes. No, it was in my corporation name.

Q Is there a record of you going down to the vault that day?

A No, there are no records in that vault.

Q There are no records in a bank vault?

A No.

Q Why?

A I don't know why.

Q You mean you can walk into a Chemical National Bank on 72nd Street, walk into the vault, without signing your name?

A Not only could I, but you can, too, because we both have.

Q I am asking you the question.

A I have answered your question.

Q Do you want to ask me the question?

A No, I have answered your question.

Q Be my guest.

THE COURT: Mr. Rubinson, he answered the question.

MR. RUBINSON: He didn't answer the question, he made a speech. I am coming to it.

Q Could I go into your vault where all the money was?

A You could go into the vault,you I had joint.

Q Did we have money in that vault?

A Yes.

Q How much?

A Different amounts from time to time.

Q Give me the top amount we ever had.

A Maybe 50,000, 30,000, 40,000, I don't remember.

Q 30, 40, 50, it sounds like it doesn't mean nothing, right?

A I really don't remember.

Q How much money did you have in your vault?

A What date?

Q In 1968 and 1969, the top amount like you testified

about me?

A I don't know. I may have had a hundred thousand dollars.

Q How about a million and a quarter?

A I never had a million and a quarter.

Q You better believe you had.

THE COURT: Mr. Rubinson--

MR. RUBINSON: The man is sitting up here--

THE COURT: Mr. Rubinson, I have asked you not to make remarks. You may ask the questions--

MR. RUBINSON: Your Honor--

THE COURT: You may ask the witness questions, but you may not make remarks as you go along.

Q Did there come a time when you opened your vault and showed me what you had in there?

A Yes.

Q How big was your vault, the size?

A It was a double box.

Q Was it almost the size of a file drawer?

A Two file drawers.

Q Two file drawers. Was it stacked with hundred dollar bills?

A No.

Q $1 bills?

A No.

Q $500 bills?

A No.

Q It had no money in there?

A Yes.

Q Oh, you mean -- I'm sorry, you mean it wasn't fully stacked. Was it halfway stacked?

A No.

Q I'll have to get a ruler and measure how many hundred dollar bills --

THE COURT: Just a moment. Does this relate to a crime the witness is supposed to have committed?

MR. RUBINSON: I am relating to a crime he has so much money, he doesn't want to go to jail, he made all kinds of deals with the government, he is sitting there and doesn't remember what he don't want to remember--

THE COURT: Mr. Rubinson, you can ask him about any of these crimes he has told the government about.

MR. RUBINSON: I am asking him, but he is not giving me a responsive answer.

THE COURT: Is this relating to some crime, the money --

MR. RUBINSON: It is relating to Stern Haskell. He said he paid the man money out of his vault. I wanted

to know if I could go to his vault. He said no, I can't. The next thing he said maybe Rubinson was there or maybe he wasn't. I am showing he did 250 deals I was not his partner. For the convenience of the government he shoved us all in one deal so he can take a walk and spend his money all over the world. That's what I am trying to show.

MR. WOHL: Your Honor, I object to Mr. Rubinson's comment that the witness' answers have not been responsive. I think Mr. Rubinson has been apparently guessing what was in the vault, putting different things, but he never asked the witness what was in there, and I don't think it is correct for him to say the witness' answers have not been responsive.

THE COURT: What I was getting at is whether this is something about which he told the government and is it related to some specific criminal act.

MR. RUBINSON: That's what I want to know.

MR. WOHL: I don't think a date was ever established in this transaction.

THE COURT: Is the money in the vault related to some specific criminal act?

MR. RUBINSON: '68 and '69. I don't go to '70 yet.

THE COURT: Mr. Wohl?

MR. WOHL: I don't know whether it did or not.

THE COURT: That's why I am trying to limit Mr. Rubinson to asking the witness about these other criminal matters.

MR. WOHL: I think, your Honor, that although no date was established the witness did testify about a vault in connection with the Stern Haskell case, so we have no objection to his--

THE COURT: I see. I didn't recall that. You say he had a vault in connection with Stern Haskell.

MR. WOHL: That's right.

THE COURT: And that iswhat you are asking him about?

MR. RUBINSON: He testified--

THE COURT: Is that what you are asking him about?

MR. RUBINSON: Your Honor, I forgot what I am asking him about.

THE COURT: About the vault in connection with Stern Haskell?

MR. RUBINSON: Well, it is the vault in Stern Haskell and in all these other --

THE COURT: I am asking if that is what you are asking him about.

MR. RUBINSON: I am asking about the vault in Stern Haskell and I am coming to some other vaults, too. The vault in Stern Haskell, whether the government deal

on his debriefing covers all these things that I know about.

THE COURT: Mr. Rubinson, right now the question is: Are you asking the witness about the vault which he testified to with respect to the Stern-Haskell transaction?

MR. RUBINSON: No, to all his crimes. No. Is that the money in that particular vault from all his crimes?

THE COURT: Is that the question to the witness now?

MR. RUBINSON: Yes.

Q Is that the money from all your crimes in the vault on 72nd Street?

MR. WOHL: I object. It is a completely unfair question, like"When did you stop beating your wife?"

MR. RUBINSON: We are not in a tennis match, what do you mean unfair? I am trying to find out from this man to protect myself. I want to protect myself. I don't think that is unfair.

MR. WOHL: I am sure Mr. Rubinson wants to protect himself. However, I think it is an unfair question. It seems to me the proper question is, "What was in the vault?" That hasn't been established.

MR. RUBINSON: He said there was money in the vault. He said there was at least $125,000 in the vault. I am trying to refresh his memory there was a million and a quarter in the vault. That's $1,250,000. And that is not the only

vault.

THE COURT: The witness already answered there was not that amount. Is that your testimony?

THE WITNESS: Yes, your Honor.

MR. RUBINSON: Okay.

Q Was the money in that vault from all your crimes?

A Which vault?

Q On 72nd Street in 1968-69?

A There were three different vault.

Q Oh, where was the other vault?

A In the same bank.

Q Was there another bank with another vault?

A Yes.

Q Where was that bank?

A Manufacturers Trust.

Q Where was that located?

A 69th Street and Third Avenue.

Q Do you still have that vault there?

A No, I do not.

Q Do you have any vaults now?

A Yes.

Q Where are they?

A Chemical Bank.

Q What branch?

A The same branch, same branch.

Q What othrr vaults?

A I have a vault in Miami.

Q What bank is that?

A Washington Federal.

MR. CHESTER: His voice is getting lower.

A I have a vault in Miami, at Washington Federal, on Normandy Isle.

MR. CHESTER: Under another name? I didn't hear that.

THE WITNESS: No, I said under Normandy Isle. I am giving you the location of the bank and the branch.

MR. CHESTER: Thank you.

Q That's the only two you have, is that correct?

A That's correct.

Q Or that's three, I'm sorry, one on 72nd Street, one 63rd Street --

A No.

Q No, you don't have that one any more?

A You asked me and I said I don't have it.

Q I can't follow this.

THE COURT: The reporter will have a hard time if you keep interrupting the witness, Mr. Rubinson. Do you want to clear it up? Were there two or three? Do you want him

to clear it up?

MR. RUBINSON: No, he cleared it up. He said there were two. I didn't get it. He said there were two. That's all right.

THE COURT: All right.

Q Do you have a hotel in Miami Beach?

A No, I do not.

Q Are you partners in a hotel in Miami Beach?

A No, I am not.

Q Who is a partner in the hotel in Miami Beach?

A What hotel?

Q The Caribbean Hotel.

A I can't hear you.

Q The Caribbean Hotel.

A Who are the people in the Caribbean Hotel?

Q Yes, who are the partners?

A My wife and Mr. Schecter, and the Schecter family.

Q Do you have a vested interest in the Caribbean Hotel?

A Personally?

Q With your wife.

A No, I do not. She owns it herself.

Q We will have to take a few minutes here now. Your testimony now is that you do not have a

vested interest with your wife?

A At this time?

Q Did you ever have one?

A Yes, I did.

Q I didn't even have to read it to you, I just had to show you I had something, right?

A It is easy when you are telling the truth.

Q Okay. Did you tell the government about all the cash payments you get in that hotel?

A I don't get any cash payments in that hotel.

Q Did you get in 1968 and 1969, with Mr. Schecter,, and with Menasche Hersh, cash payments under the table in that hotel?

A I don't get cash payments under the table in that hotel.

Q Did you get in 1968 and 1969?

A No, I did not.

Q You never took a cash payment, that is your testimony?

A I received cash back and forth.

Q One minute.

A You are asking me about under the table.

Q Is that your testimony?

A You are asking me about under the table.

Q I am asking you this question, and it is simple to understand it, and I know you want to be very careful the way you answer so I am going to give you time: Did you take any cash payments the same amount that Mr. Schecter tookand Menasche Hersh too?

A I don't know what that means. You will have to be more specific.

Q Cash payments without taking a check, that's what it means.

A You mean if I --

Q Unreported cash payments.

A You mean did I ever receive cash not reported to the government with regard to the Caribbean Hotel?

Q Yes.

A The answer is "No."

Q Did you report it to the government in your mind as miscellaneous income?

A I report whatever cash I receive to the government each year.

Q As what?

A Under miscellaneous income or whatever--

Q Is it true now that you didn't report that specific item of cash to the government, not under miscellaneous income?

A I didn't receive any cash from that hotel that I did not report.

MR. WOHL: Your Honor, I object.

Q That isn't what I asked.

A That is the answer.

Q It is not. I want to clarify it. This is a double answer.

MR. WOHL: I have to object. Mr. Rubinson keeps interrupting the witness. It's happened a number of times. Even though he is a non-lawyer it seems to me he should be able to avoid doing that.

THE COURT: Yes. Please do not interrupt the witness.

MR. RUBINSON: I expect to bring in a witness here--

THE COURT: Pardon me.

MR. RUBINSON: The reason I am pressing for an answer and I am giving this gentleman a chance to qualify his answer because I intend bringing a witness in here who was a partner of his, who is still a partner of his, who will testify to the cash payments.

Now this gentleman says he declared them in his taxes as general income -- as general income. I want to know if that cash payment was said specifically as getting it from

the Caribbean Hotel. He testified under oath here that he did not get any cash payments.

THE COURT: Mr. Rubinson, you are bound by that answer.

MR. RUBINSON: All right. I just wanted to give him a chance to retract it, because now I am going to ask him if he perjured himself now does he still have a deal with the government. Or is all deals off?

MR. WOHL: Before Mr. Rubinson gets on to what he wants to get onto I request the witness be allowed to answer the question. I am certain that he was interrupted at least twice in this area, hasn't been able to explain what he did, and how he treated it, and I think that he should be given an opportunity to give his complete answer, and I know Mr. Rubinson likes to wander away from it but I think he should be allowed to do it.

THE COURT: Let's put the question again to the witness.

MR. RUBINSON: I agree.

THE COURT: Do you want to read the question again--

MR. RUBINSON: I will --

THE COURT: Just a moment.

MR. RUBINSON: I thought you wanted me to put the question.

THE COURT: I am asking the reporter to read the question.

(Record read.)

MR. RUBINSON: That is not the question.

THE COURT: Then put the question now. Put it to him. Put the question.

Q Did you receive any cash from that hotel that you did not distinguish in your report under miscellaneous income?

A I don't know.

MR. WOHL: I object to that question on the ground that is entirely irrelevant. In other words, if he reported it, but whether he puts it under miscellaneous income or something else the government would submit is not relevant.

THE COURT: Let's take it one at a time.

Did you receive cash from the hotel? I thought the answer was "No."

THE WITNESS: I didn't say that.

MR. RUBINSON: That is not what he answered. I could ask him that.

THE COURT: Ask him separately then.

Q Did you receive cash from the hotel? Just answer yes or no so we don't get confused.

A Yes.

Q Oh, you did receive cash?

A Yes.

Q So now you have recanted what you just said.

A No.

MR. WOHL: Objection. That is not true.

THE COURT: I am frankly confufed. I thought before--

MR. RUBINSON: I am not confused because I was there.

THE COURT: Just a moment. I am talking to Mr. Wohl. Would you please stop interrupting everyone, Mr. Rubinson? I thought the witness previously testified that he didn't take any cash payments from that hotel. Was that your testimony?

THE WITNESS: No, ma'am. I said I reported what I received.

MR. RUBINSON: I wish we could read back the last few minutes. I would like it read back because I am confused.

MR. WOHL: The problem, your Honor, is I think that this last area has taken some time and sort of gotten interrupted with objections and then continuing questions, even while I was attempting to object. I don't know whether it was capable of being reported or not. Then I would like to have it read, the whole thing read back, and not just the last few questions, because I think that the witness

has at least what the reporter read back a minute ago as the witness' response, was he did not take any cash payments that were not reported to the government.

MR. RUBINSON: That was not the question I asked.

MR. WOHL: Earlier than that, I think there was a question of did you take any cash payments and then the witness responded something to the effect do you mean did they take any cash in at the hotel, and then Mr. Rubinson said, no, that wasn't his question, that he wanted to go into something else. I don't know, but do you think Mr. Rubinson was just asking the question of did people pay their bills in cash at this hotel.

MR. RUBINSON: You know better than that.

MR. WOHL: I would submit in any event perhaps it could be cleared up if the questions are put one at a time as your Honor suggested as to whether he took in any cash, whether it was reported to the government, if it was reported how it was reported. That seems to me to be the proper way to do it.

MR. RUBINSON: I would like to leave the hotel alone, I will get back to it, because I have to clear it in my own mind. I will get back to it.

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THE COURT: I was going to suggest to you that rather than have the record read back, you start again to clarify the record --

MR. RUBINSON: Could I wait five minutes and then come back to it?

THE COURT: All right.

Q In 1968 and 1969 were you indicted as a co-conspirator in a case right in this courtroom called the Imperial Investment case?

A Yes.

Q What did you tell the government about that particular case?

A Whatever they asked me.

Q I want to be more specific than whatever they asked you, because he didn't invite me in when he asked you. So would you please tell the jury and myself and the court and the defendants here what you told him about Imperial Investment?

A I would have to look at the record and read it in order to refresh my memory.

MR. WOHL: Excuse me, your Honor --

Q Maybe I can help you refresh your memory, if I can lead you a little bit -- am I allowed to lead the witness-

THE COURT: Yes.

MR. WOHL: There seems to be a problem here, if I may state, where we have two non-lawyers and the statement has been made, was he indicted as a co-conspirator, and I would like that cleared up, whether Mr. Rubinson was claiming Mr. Stein was actually indicted in the case or whether he was just named in the indictment as a co-conspirator but not indicted.

THE COURT: I see.

Q Were you not indicted and just named as a co-conspirator in the Imperial Investment case?

A Yes.

MR. HIGGINS: Was that the case that Mr. Stein was given transactional immunity on?

THE WITNESS: Yes.

Q Were you a government witness in that case?

A Yes.

Q Would you tell us about the cast of characters in that case? By the cast of characters, I mean who was indicted in that case.

A The defendants?

Q Yes.

A I would have to look at the case in order to refresh my memory.

Q Does the name Tramunti sound familiar?

A He was one of the defendants. I don't know--

Q He was one of the defendants?

A I remember the name, yes.

Q Was Dio, Alias Dioguardi, a defendant?

A Yes.

Q Was Carmine Lombardose a defendant?

A I don't think so.

Q Was his brother John Lambardose a defendant?

A I don't think so.

Q So you know who was a defendant and who wasn't, right?

A No, I don't.

Q But you know who was and who wasn't by the questions I am asking you.

A I said I don't think so.

Q But he could have been, right?

A He could have been, but I don't think he was.

Q Do you know Jerry Devons, in that case?

A Yes.

Q Who was Jerry Devons?

A Who was he? He is alive. He is a man.

Q I said who was he? What do you mean he is alive, he is a man. I am not asking you about dead people. I asked you who he was in the Imperial Investment case.

A I think he was a victim.

Q Was he the president of the company?

A Are you talking about a lawsuit -- don't holler, Mr. Rubinson.

Q Was he the president of the company?

MR. WOHL: We seem to have the same problem, which I object to, Mr. Rubinson seems to like to interrupt the witness and I think that should be stopped. The witness has a right to respond to the question and not have Mr. Rubinson run roughshod over him like that.

THE COURT: Well, the witness understood your question to mean was he involved somehow in the case and he said he was a victim. You can now ask him whether he was an officer of that corporation. He misunderstood your question. He can't read your mind all the time, so don't yell at the witness, just repeat the question or rephrase it.

MR. RUBINSON: Okay.

Q Was he an officer in Imperial Investment Corporation?

A Yes.

Q Did there come a time when you received a telephone call from him that he wanted to sell 15,000 shares of Imperial Investment stock?

A No.

Q Did there come a time when he came to New York, to your apartment, when I was there, in my presence, when he offered to sell you 15,000 shares of stock in Imperial Investment?

A I think it was 20, but it could have been 15. He came to visit me, yes.

Q Did you buy that stock?

A No.

Q Did you invite me to become your partner in that stock?

A Yes.

Q Did I accept?

A No.

Q Who did you get the money from to become a partner in that stock?

A Who did I get the money from? I didn't get the money from anybody.

Q Who paid for the stock?

A Who did I have him sell it to me?

Q Yes.

A I had him sell it to a charity.

Q What charity?

A B'Noth Jerusalem.

Q What date was that in 1968 or 1969, do you recall the date?

A I don't recall the date.

Q How much did B'Noth Jerusalem pay for that stock?

A I don't remember. 20 some odd thousand dollars.

Q Was it a dollar a share?

A I don't remember. Something like that. Some cheap amount.

Q A dollar a share?

A I don't know.

Q The next day, how much was it sold for?

A Six or seven or eight dollars.

Q Times 20, that is $160,000.

A You mean did they get $160,000?

Q Yes.

A No. They got nothing. They got their money back.

Q I didn't get to that yet --

A You are making a conclusion. They never sold 20,000 shares.

Q How much did they sell?

A Six, seven, eight thousand.

Q How much money did they get?

A Nothing.

Q Did they receive money for that stock?

A No, they didn't.

Q Who got the money?

A Who got the money?

Q Yes, on the stock that was sold.

A I think Mike Hellerman got the money.

Q Who is he?

A He was a defendant in the case.

MR. WOHL: Objection, your Honor--

Q He was a defendant, Mike Hellerman. How did he get the money?

MR. WOHL: I object--

MR. RUBINSON: Your Honor, there was a kidnapping involved in this case --

THE COURT: Just a moment, Mr. Rubinson. What is your objection, Mr. Wohl?

MR. WOHL: Again, we seem to have gotten off into the details of activities of other individuals such as this Mr. Hellerman and now we are going off into who Mr. Hellerman is which the government submits is not relevant under the broadened rules that would apply to this situation.

MR. ANDREWS: The question is whose friend is B'Noth Jerusalem.

MR. WOHL: I have no objection to questions about that.

MR. RUBINSON: Well, they had Mr. Sten Nordin say he was a dress manufacturer, he didn't know what he was, and I ran the company. B'Noth Jerusalem and I were that far apart and he is that close, that is what I am trying to bring out.

THE COURT: This man you just mentioned --

MR. RUBINSON: Well, we will forget Mike Hellerman.

THE COURT: You can ask about B'Noth Jerusalem, but not about Hellerman.

MR. RUBINSON: Okay.

Q Is it not true that you and I went in your limousine on the east side, 11 o'clock at night, in a dark and dingy store and collected a thundred thousand dollars? Is it not true -- from Morris Gluck's group, B'Noth Jerusalem?

A I cannot recall. You will have to be more specific.

Q How much more specific can I be, a dark and dingy night.

A I can't recall.

Q You don't want to recall what you don't want to recall --

THE COURT: Do you have a date?

MR. RUBINSON: In 1969, in the early part of 1969.

THE COURT: Here in Manhattan?

MR. RUBINSON: Yes, on Broome Street, on the east side somewhere.

MR. WOHL: I object to Mr. Rubinson's comment about not wanting to recall things. It is particularly inappropriate in this situation where the witness has transactional immunity and there is no reason why he wouldn't want to recall that.

MR. FISCHETTI: I object to that. The reason is motive and that is what he is attempting to bring out and I object to Mr. Wohl's statement that obviously he has no motive.

MR. HIGGINS: Also possibly perjury, your Honor. If this witness testified to it previously in a false manner transactional immunity would not apply.

MR. WOHL: These gentlemen can bring out if it occurs, your Honor.

MR. FISCHETTI: I object to this statement that it doesn't matter, this witness can say anything he wants. It matters very much and Mr. Wohl well knows that.

THE COURT: Just a moment. Mr. Rubinson, give the witness a date and place. He said he could not recall and he would need you to help.him refresh his recollection, if you can do that. You can put in the question the date and so forth.

Q In 1969 did you know a man by the name of Spitzer?

A Yes.

Q Is that the gentleman from B'Noth Jerusalem?

A Yes, it is.

Q Does he have discount stores, little stores on the east side?

A Yes, he does.

Q Did you ask me to take a ride with you one evening to collect some money?

A I don't recall.

Q You don't recall?

MR. RUBINSON: Your Honor, this presents a problem, because Mr. Gluck and Mr. Spitzer are going to be subpoenaed here and this man knows them, and how can I go against this man's testimony when he says he doesn't recall when he recalls? I ask that he be responsive, either yes or no.

THE COURT: His testimony is that he doesn't recall.

MR. RUBINSON: That is very convenient in this case.

MR. WOHL: Your Honor, I would submit that if Mr. Rubinson really wanted an answer he could harrow down the time period and ask about a specific time period and perhaps rather than just a dark and dingy night, which most nights are.

THE COURT: Can you give an approximate date?

MR. RUBINSON: In the early part of 1969.

A I don't recall.

MR. FISCHETTI: May we have a side bar, your Honor?

THE COURT: We will take a recess. The jury is excused for ten minutes.

(Jury leaves courtroom)

THE COURT: You may come down.

THE WITNESS: Thank you.

(Witness leaves courtroom)

THE COURT: Mr. Rubinson --

MR. FISCHETTI: I have an application, your Honor.

THE COURT: Just a minute.

Mr. Rubinson, you may inquire into these other matters which constitute wrongful acts by the witness, Mr. Stein, which you are now inquiring into, but you are bound by the witness' answer. Do you understand that? That is the law and you are not going to be able to call witnesses to prove it.

MR. RUBINSON: Well, this becomes a problem in this particular case, and I will tell you what the problem is: We are not dealing here with a man that is an inexperienced witness; he is a professional government witness, has testifi in numerous cases, has been wiretapped and wire rigged. He

knows every in and out. There are reasons that he doesn't want to testify about this because it would only help all the defendants in this case. This man has laid a trap for us with the government, your Honor, and I am trying to undo the trap and this connection of Stein, Feiffer, Rubinson, and I just proved in one sentence, in 250 deals he had one deal with me, but I lived in his house, I was his friend, my children are still friends and my wife is his wife's friend, but this man doesn't care about anybody and this is the motive, he will buy the world so he can sit there and spend his ill gotten money. I did not share in that money. I am trying to get it to the jury. If the jury won't let us go into this, who else can we go to.

THE COURT: We know that is what you want to do, impeach the witness. I am only telling you, which is my duty, what the law is. You may inquire into these things on cross-examination, these other matters, other than Stern-Haskell, but with respect to those other matters, you are not going to be able to produce witnesses here to prove it.

MR. RUBINSON: Your Honor-

THE COURT: Please don't say again you are going to call somebody to prove--

MR. RUBINSON: I didn't say that.

THE COURT: You did, you said it twice, that you were going to call somebody to prove the witness--

MR. RUBINSON: But he did recant when I said it. It shows he perjured himself the first time. He did recant when I said it, and this is what I'm trying to show, that he will say anything; when you push him, he will got the other way.

The Government pushed him to make a case and he made a case here about nothing.

MR. WOHL: Your Honor, since the jury is absent, we have a peculiar situation here, a pro se defendant making a number of statements about how nothing happened here in the Stern-Haskell situation, and that sort of thing.

Just so the Court is not misled, I think I should make it clear that Mr. Rubinson has made a number of approaches to the U. S. Attorney's office and applications which are certainly inconsistent with what he is representing to the Court at the present time; that there was no crime in the Stern-Haskell situation, and I think it is improper, even though he may be a pro se defendant and he is entitled to conduct his own defense-- I think it is certainly improper of him to make representations of fact to the Court even outside the presence of the jury, which are clearly inconsistent with what he represented to the Government on other occasions.

MR. RUBINSON: Your Honor, this is a very important thing. In April 1974, before Judge Weinstein, I was sentenced to six months.

This gentleman here threatened me, wrote a letter to Judge Weinstein saying I would not cooperate with the Government.

Is that true? Did you write such a letter? Did you threaten me?

MR. WOHL: I didn't threaten--

MR. RUBINSON: Did you write such a letter?

MR.WOHL: Mr. Rubinson offered to tell everybody about all the fraud in the Stern-Haskell case--

MR. RUBINSON: Just between Stern and Haskell and let everybody go--

MR. WOHL: He offered to name everybody, including the attorneys involved, the accountants involved--

MR. RUBINSON: What they did not do.

MR. WOHL: He was going to name everybody--

THE COURT: In Stern-Haskell?

MR. WOHL: That's right --

MR.RUBINSON: When you put your witness on the stand, Mr. Schatz, I will cross-examine him. You did write it--

MR. WOHL: I wrote to the Judge and that letter is

on the record and if Mr. Rubinson wants to make anything out of it, he is perfectly entitled to do that.

I think it is perfectly improper of Mr. Rubinson to be now carrying on before the Court as though he had always claimed there was no crime in Stern-Haskell or there were only one or two defendants when he has previously made certain offers to dispose of the case that are inconsistent with that, and he has previously made offers to be a Government witness himself and to name all of these people as participating in a fraud but he wanted just a total immunity, and I don't think that it is proper, although he may represent himself, for him to make factual statements to the Court which would appear to give a different impression.

THE COURT: Mr. Fischetti, did you have something to say?

MR. FISCHETTI: Mr. Rubinson's examination of Mr. Stein has asked a direct question with regard to pick-up of money, the approximate amount of $100,000, from an organizationby the name of B'Noth Jerusalem, in cash, describing a limited time period.

Mr. Stein has said repeatedly "I don't recall." I think at this time it is proper for your Honor to warn the witness-- not the United States Attorney -- but your

Honor to warn the witness in front of the jury that answers like this if they are in fact evasive are perjurious. In other words, he cannot get around the deal he has with the Government to not commit perjury by simply saying "I don't recall."

I have been confronted with this situation before and I have had judges rule on this matter, not where you are asking the color of a man's tie, what suit he had on, but your Honor has had the occasion to observe Mr. Stein during the course of his direct testimony and he has testified in some detail about conversations in 1968 and 1969, and I believe, your Honor, that the fact that he cannot recall picking up $100,000 in cash in the presence of Mr. Rubinson may indeed be an answer that is so evasive that it might be tantamount to perjury and I believe he is entitled to be warned of that in front of the jury because I believe this man is attempting in his answers to Mr. Rubinson to be evasive.

THE COURT: Mr. Wohl, is there some prior discussion of this amount by the witness Stein and you claim he has revealed to the Government all his activities, or has agreed to, in connection with his testimony here -- was there some discussion of this $100,000 figure Mr. Rubinson is talking about?

MR. WOHL: Not that I know of, your Honor.

I should state, however, that undoubtedly the most intensive discussions with Mr. Stein concerning the Imperial matter, and I gather this is part of the Imperial matter, were conducted by other people and I can check into that, and I certainly will, but I think your Honor should bear in mind in considering Mr. Fischetti's application that these representations of fact in these questions are being made by a man who is a convicted perjurer and he also has a stock fraud conviction that had nothing to do with Mr. Stein.

THE COURT: You mean Mr. Rubinson?

MR. WOHL: That's right.

THE COURT: Is there any basis for this claim or this question -- Mr. Higgins, I thought you indicated there was some prior inconsistent testimony by the witness with respect to this $100,000 figure?

MR.HIGGINS: I did not try the Imperial case nor was I involved firsthand, but I did have an opportunity to recall facts of that case, or go over them, and it is my recollectionthat this witness' testimony as to what happened on the sale of the-- the proceeds of the sale of the stock to B'Noth Jerusalem may be inconsistent with the facts Mr. Rubinson is seeking to elicit by his cross-

examination; in other words, who got the money, and it is my recollection, but I can't swear to it, that Mr. Stein previously minimized the amount of the proceeds he personally got and testified that other people got the proceeds.

THE COURT: From the sale of Stern-Haskell stock?

MR.HIGGINS: No, the stock sold by B'Noth Jerusalem which is the Imperial Investment stock--

MR. RUBINSON: To Mike Hellerman.

MR.HIGGINS: The witness possibly may have committed perjury on a prior occasion and that might be motive for him to testify here that he can't recall any specific event that Mr. Rubinson is pointing to, namely, of actually picking up cash at a certain storefront on Broome Street in early 1969.

THE COURT: What I had reference to was Mr. Fischetti's request that the Court warn the witness that he might be indicted for perjury despite all the immunity and promises he has received from the Government, and I am trying to find out whether the Government's claim is to be credited, that this is probably something being made up by Mr. Rubinson, or whether there is a basis in fact for Mr. Rubinson's question.

Is there some basis in fact?

MR. HIGGINS: There is a basis in fact, to my recollection, that Mr. Stein's testimony in the Imperial trial is inconsistent with the facts Mr. Rubinson is seeking to elicit.

Now, the accuracy of Mr. Rubinson's fact, I don't know --

MR. RUBINSON: I was there.

MR.HIGGINS: He says he has two witnesses he wants on subpoena to prove Stein was given $100,000 in the store on Broome Street.

I have some recollection that Stein testified inconsistently with those facts at the Imperial trial.

MR. WOHL: What Mr. Higgins seems to be saying, as I understand it, is Mr. Stein-- I am not that familiar with the Imperial case, but I gather Mr. Higgins is saying that Mr. Stein's testimony at the present time is at least not inconsistent with his testimony in the prior trials--

MR.HIGGINS: It is inconsistent.

MR. WOHL: In the prior trials I gather that he never testified that he received $100,000 or whether he remembered it or didn't remember it.

MR.HIGGINS: Correct.

MR. WOHL: He is not saying the same thing here.

MR. FISCHETTI: No, he is not, Judge. His answer

to the question is not "No, I didn't receive the money" or "I didn't go with him" but the answer is "I don't recall" and I submit to the Court that he cannot hide behind "I don't recall" with facts such as these, $100,000 incash, a time period established, and an offer of proof by Mr. Rubinson that other people were there.

He may think "I don't recall" is a shield for perjury so that later he can say, "Yes, I did pick up the money but at this particular time under oath I did not recall it" and I ask your Honor to instruct him in front of the jury that that type of answer, if it is evasive and found to be evasive, can be perjury in and of itself.

MR. RUBINSON: And I will be bound by that answer.

THE COURT: Let me see if I understand what you are saying.

Are you saying that on the prior trial involving the Imperial case he was asked if he got any money and he said that he did, whereas here he is saying "I don't recall"?

MR. FISCHETTI: No, Judge. I am not saying anything about the prior trial a question has been put to the witness who was given immunity except for perjury, whether or not he picked up a large sum of money at a specified

time in the company of Mr. Rubinson.

He didn't answer thatyes or no, his answer was "I don't recall."

I believe, Judge, as an attorney that that answer is evasive, after watching this witness for two days on direct examination.

He may believe that his answer, "I don't recall" protects him from a possible indictment for perjury since his deal with the Government is that if he does not commit perjury he cannot be indicted for any of his criminal acts and I ask the Court to instruct him.

THE COURT: My answer to you, your having just said that, is that I feel that before I could so instruct the witness, it would have to appear to me that there is some basis in fact for this question; otherwise, for me to so instruct the jury, would seem to indicate that the witness is not telling the truth.

I have to have some basis for your suggesting that perjury may be involved here, and I have none. That is all I am trying to say. I am willing to do that if you can say to me, "Well, Judge, on the prior case he was asked whether he got any money and he said,"Yes," he got $30,000 or $40,000 or $100,000, but now he is saying "I don't remember," then there would be a basis for me to

say to him in the presence of the jury, "Mr. Stein, I must warn you that all of your promises from the Government do not include a promise you will not be prosecuted for perjury for any misstatement of fact you make here or any perjury you may commit here."

Do you follow that?

MR.FISCHETTI: Yes, your Honor.

I didn't think your Honor needed that type of offer because my application was that the witness be instructed that if he does remember such an occasion, hidind behind the words "I don't recall" doesn't protect him.

THE COURT: I think it is particularly necessary for me to do so in view of the Government's present claim that this is something being made up by Mr. Rubinson.

MR. FISCHETTI: I don't think Mr. Wohl said that.

MR.RUBINSON: Mr. Wohl is not claiming that. I want to say one thing--

THE COURT: Then I misunderstood.

I thought you said this is probably something Mr. Rubinson is making up, he being a convicted perjurer, and something else.

MR. WOHL: What I said, your Honor, was that all we have in this courtroom to suggest is that this payment was in fact made and that Mr. Stein was present is

Mr. Rubinson's word, and I described his impeachability.

I didn't,however, represent that I was familiar with the Imperial facts.

There are other Assistant United States Attorneys who are and I will certainly go over this with them this evening.

THE COURT: Suppose you do that and then you can take that up tomorrow, if he gets any information on that, Mr. Rubinson.

We will take a five-minute recess.

(Recess: Time noted: 3:45 p.m.)

(In open court, jury not present)

THE COURT: The witness said he remembered the other two stocks, so you can ask him about it.

MR. RUBINSON: I forgot which ones.

THE COURT: The five-- he said there were five stocks.

MR. RUBINSON: Yes. I would like to make an application at this time to delay my cross-examination for an evidentiary hearing for the two people that Mr. Wohl is in touch with from B'Noth Jerusalem, because they are co-conspirators in this case, and to try and refresh Mr. Stein's recollection as to the money that was given that night on the East Side.

THE COURT: Just a minute.

Read that back, Mr. Reporter, the application.

(Record read)

THE COURT: I don't understand what you are saying.

MR. RUBINSON: We had before the Court before a discussion, and Mr. Wohl said that since I am a convicted perjurer he can't take my word for it.

If Mr. Wohl would only be kind enough to get on the telephone, even, and discuss it with these people that he knows so I can continue from that point, I just want

to show this Court that this is the truth, that he can discuss it with these people, whom he knows, who are co-conspirators in this case, the B'Noth Jerusalem and Rabbi Weiss, as to the money received in the Imperial Investment case, and how it was given that night, and how it was returned later, which we are going to get into as it goes.

THE COURT: That is Yehuda Weiss and B'Noth Jerusalem, thatis what you are talking about?

MR. RUBINSON: Yes.

THE COURT: That would be one person, as I understand it.

MR. RUBINSON: There is more than one, because we have Morris Gluck, whose name was brought out on direct testimony, and also Mr. Spitzer, who was brought out on direct testimony, whethere they received any money in that, whether Mr. Stein received any moneyfrom them in that particular item.

But it seems, as I think about it during the recess, it seems unusual that a large amount of money like this couldn't be remembered.

Either he got it or he didn't get it. This is what I want to know. And I'll be bound by his answer if he got it or he didn't get it, but I think we are entitled to get an answer.

Otherwise, instruct him that being evasive could be perjury.

MR. WOHL: I would certainly oppose Mr. Rubinson's application. It seems to me we are going off on one of these collateral matters which is exactly what we are not supposed to be doing.

THE COURT: Yes.

MR. WOHL: It seems to me that in any event Mr. Rubinson would be bound by the witness' answer on this collateral matter, and this trial should not be turned into a trial of whether Mr. Stein is answering truthfully or not on this collateral matter.

THE COURT: Yes.

As I told you before, Mr. Rubinson, you may inquire into these matters and you are bound by the witness' answer. We can't have a separate trial here on what happened in this Imperial-- what is it? Imperial stock?

MR. RUBINSON: May I be permitted when Yehuda Weiss takes the stand to put that question to him, because he is a co-conspirator. And if he says different then have an evidentiary-

THE COURT: He was involvedin that crime?

MR. RUBINSON: Yes, Ma'am, he was; his organization was.

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THE COURT: You can ask him about similar crimes, too, as you are asking this witness.

Mr. rubinson: But I want to know how it will bind this witness as to his answer, if it comes out different.

Can we then have an evidentiary hearing to impeach this witness?

THE COURT: No, we don't have such evidentiary hearings to impeach the witness.

MR. ANDREWS: May I be heard, your Honor?

I know that--

THE COURT: We have gone over this at great length, Mr. Andrews.

MR. ANDREWS: I understand that.

THE COURT: I am trying to get on with the trial.

MR. ANDREWS: I understand that, your Honor.

THE COURT: The Court's ruling is that Mr. Rubinson is bound by the answer given by the witness, and of course as it has been brought out before, the witness does not have any immunity from perjury with respect to his answers on this trial.

MR. ANDREWS: If it please the Court, the question of B'Noth Jerusalem and its relationship to this defendant I submit is not a collateral matter. He has dealt with the B'Noth Jerusalem as an alter ego in this case . Apparently

Mr. Rubinson has intimate knowledge of his dealings with B'Noth Jerusalem in identical fashion in other cases.

It seems to me to be somewhat more important than the conventional collateral matter.

Mr. Wohl wasted at least three days of this Court's time on collateral matters.

THE COURT: It has to be collateral. It was the subject matter of another indictment. It is obviously collateral to this indictment.

MR. ANDREWS: But that part of the other indictment shows up as an aleter ego of Mr. Stein. There seems to be a pattern of Mr. Stein working through B'Noth Jerusalem, apparently a legitimate organization. Perhaps he is using it, perhaps not. It is significant B'Noth Jerusalem sold a substantial amount of stock to my client in this case, and I am going to have to be able to, or I would like to be able to go into this relationship with B'Noth Jerusalem at a greater length and I think no one is more qualified in this courtroom to do it on behalf of the defense than Mr. Rubinson, because of his intimate knowledge of the workings of this man's mind.

I submit to that extent it is not a collateral matter, his relationship with B'Noth.

I agree with you the Imperial Investment case is,

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and if in that case again used B'Noth Jerusalem in some way it is in that sense collateral, but it ceases to be the typical collateral matter--

THE COURT: What does it become? Tell me what it is in law.

MR. ANDREWS: Part of the substance of this case, his continuing ongoing use of B'Noth Jerusalem.

I would like your Honor to remember in the Imperial Investment case it was somewhat contemporaneous with his use of B'Noth Jerusalem in this case. He was using them to effect his nefarious deeds, all throughout this period of time.

He may have sold them stock in the other matter at about the time he caused them to buy stock in this case.

I am not so sure that it is so collateral.

THE COURT: I have already ruled.

MR. ANDREWS: I think it is at least reasonable to ask Mr. Wohl to check with his own witnesses to see whether or not the event that Mr. Rubinson recalls actually took place so that we can find out whether Mr. Rubinson is acting here in good faith.

I think that is minimal, something we ought to do minimally. Whether or not we ought to have a hearing is one thing. Whether or not Mr. Wohl might pick up the phone

and call Mr. Gluck, call Mr. Spitzer and come back and represent to the Court that indeed they do have such a recollection of this man picking up $100,000 in cash on Broome Street, I think in the interests of justice that is appropriate.

THE COURT: The purpose of the rule is demonstrated by this, that you can't prove by extrinsic evidence these collateral matters.

We have now spent 40 minutes on this. That is the purpose of the rule, so that on a trial like this we don't retry all the other cases in which Mr. Stein has been involved.

That is what really is going on here, an attempt to try all these other cases, and prove that he committed crimes even after he has admitted he has committed crimes.

He asked him,"Did you commit a crime in that case?"

He says, "Yes."

Then he goes on and he wants to bring out before the jury all the details of that crime.

Now, you know as well as I do, Mr. Andrews, that is not permitted under the rules of evidence.

MR. ANDREWS: I understand.

THE COURT: We would be here until the Christmas after next if we were going to go into all the crimes this

has already admitted he has committed.

He said he was involved in some 200 stocks.

How long would that take for Mr. Rubinson to go into that? You know it would take weeks and weeks and weeks and months, so that the rules of evidence prohibit what you would like to have occur here, for us to go out now and to prove this extrinsic matter, this crime, if it was a crime, by extrinsic evidence.

So the Court's ruling is he is bound by the answer here.

Now, bring in the jury.

(In open court, jury present)

Q The last question I asked you, Mr. Stein, was whether or not you remembered receiving $100,000 on the East Side, and me being present with you?

A I don't recall any such incident.

Q You don't recall, but it could have happened? Would you say it could have happened?

A I don't recall any such incident.

Q But it could have happened, yes or no?

Could it or could it not have happened?

A Could it have happened that we collected $100,000?

Q Yes.

A No, it couldn't have happened.

Q It couldn't have happened?

A No.

Q So for sure I was not your partner in that transaction?

A That is not the question you are asking.

Q I am asking another question.

A I don't know what transaction you are talking about.

Q In the transaction where we --

THE COURT: Mr. Rubinson, again ask the witness about his conduct, not about your conduct with respect to other crimes for which you have not been indicted.

MR. RUBINSON: Okay.

Q In the Imperial Investment case did there come a time when you received a telephone call from a man known as Max Raymond, alias Max Edar, and another name, Patsy Ara, from Miami, Florida?

A You are asking me two questions in one.

Q Question one: Did you receive a telephone call from either oneof those two gentlemen?

A From either one?

Q Yes.

A I called one of them and then one of them called me.

Q What did you say to him and what did he say to you?

A Don't you want to know who--

MR. WOHL: Objection. We are now delving into the details of another one of these massive trials.

THE COURT: Yes, ask him what the trial was about, whether he commited any crime in connection with that.

Let's not ask him about how those crimes came about. Ask him whether it isn't a fact that he was involved in a transaction with Mr. X, which is criminal.

MR. RUBINSON: Your Honor--

THE COURT: Mr. Rubinson --

MR.RUBINSON: I must make this application. I

must ask you this before I go on. There is a crime of stealing a loaf of bread and there is a crime of kidnapping. These are two crimes.

If I say, were you involved in a crime in Imperial Investment; yes. If you ask me to end it htere, did you not show the involvement--

THE COURT: I said you can ask him what it was about.

Q What was the Imperial Investment about?

MR. WOHL: Objection. The first question should be whether Mr. Stein committed a crime.

Then the next question should be what was the crime.

THE COURT: Yes.

Q Did you commit a crime, Mr. Stein, in the Imperial Investment case?'

A I was an unindicted co-conspirator.

Q I didn't ask you that. Did you commit a crime? Answer the question.

A I don't know.

Q You don't know?

A No.

Q You knew you committed 250 crimes, now you don't know whether you committed this particular crime?

A I don't know what crime you are talking about.

Q Why are you evasive?

A Tell me about a charge, and I will answer your question.

Q You have got the protection of the Court so I have to be very careful.

THE COURT: Ask him if he did anything illegal in that case.

MR. RUBINSON: I asked him if he committed a crime and he says which crime.

Q Did you do anything illegal in the Imperial Investment case?

A Yes.

Q What did you do?

A I covered a short position for Lockwood & Company. After they were short the stock I got the people at Imperial Investment, the attorney there, and Jerry Devins, to fill a short position for Mr. Levine.

Mr. Levine had been selling the stock short and he needed four or five or six thousand shares, I don't remember the amount, and I got the stock from them for a cheap price and filled it so that Mr. Levine wouldn't take a loss.

Q Okay --

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A And I got some other stock from them that I sold.

Q Oh, the stock that you got from them, who paid for that stock?

A The stock that I got from them?

Q Yes.

A I got two different blocks.

THE COURT: Just a minute, Mr. Rubinson.

MR. RUBINSON: I am trying to get B'Noth Jerusalem back in, your Honor.

THE COURT: Just a minute, Mr.Rubinson.

You have asked him what he did in connection with that case.

Don't go into details.

MR. RUBINSON: I won't.

THE COURT: You asked him what he did which was illegal and he told us.

MR. RUBINSON: He is lying, and I want to cross-examine him to prove it.

MR. ANDREWS: I move to strike the answer to this, because I havn't heard about anything illegal in that answer.

I ask you direct him to be responsive.

THE WITNESS: I haven't finished the answer yet.

THE COURT: He says he hasn't finished the answer.

A I bought from them registered stock--

MR. ANDREWS: From whom, may we ask?

THE WITNESS: From the company.

THE COURT: What company?

THE WITNESS: Imperial Investment.

Q From who in the company? You can't buy from a company. Somebody sold it to you.

A The man's name was Spencer, I believe. I am not sure. The stock was registered.

Q Was it investment stock?

A No, it wasn't.

Q It was never stamped "Investment Stock", Spencer's stock?

A It was free stock.

Q Was Spencer an investor in that company?

A Was he an investor?

Q Yes. He had 20,000 shares?

A Something like that.

Q Okay.

So it was investment stock but not stamped?

A No, it wasn't investment stock. No, no. It was registered stock, and the court records of that so indicate that it was registered stock.

Q Okay. Thank you.

A I filled --

Q I want to go back--

A I want to finish my answer.

I filled Mr.Levine's short position and the balance of the stock I divided the profits with myself and the charity.

MR. ANDREWS: Is that answer finished?

THE WITNESS: Pardon me?

MR. ANDREWS: Has the answer been finished?

THE COURT: Yes.

MR. ANDREWS: I move it be stricken because he has not said one thing illegal about any of the transactions.

THE COURT: He just shared the profits.

MR. ANDREWS: With B'Noth. The inference was there was something illegal with Lockwood. If he did something dirty with the charity, which was left, his buddy B'Noth Jerusalem, that is something else, but he tried to make a slanderous remark about Lockwood & Company by saying it was illegal that he did.

THE COURT: Are you claiming something you did with Lockwood was the illegal part of it?

THE WITNESS: I am repeating the fact. I am saying

I bought the stock, Lockwood was short the stock, the stock was selling at $4, I filled them at $1 or $2, or whatever price I bought it for --

THE COURT: Is that illegal? Is that what you are saying is illegal?

THE WITNESS: I don't if it is or not.

MR. ANDREWS: I ask you to say as a matter of law to this jury it is not illegal. I haven't heard one thing illegal about that transaction as a matter of law.

THE COURT: I don't know that, Mr. Andrews. You are making the statement. I don't know that. I haven't tried that case. I don't know what's involved,and I don't know what this witness is talking about.

MR. ANDREWS: Just the transaction he mentioned, he bought registered stock, he filled Levine's short position at Lockwood.

I don't believe that is illegal.

THE COURT: He doesn't claim it to be.

Is that right?

THE WITNESS: I don't know if it is or not. He is asking me what I did and I am trying to tell him what I did.

I would like to go on and finish the rest of the question.

Q Go ahead. I am waiting.

A I think that if I explain it all then you won't have to ask a lot of questions.

Q Thank you.

A There was one block of stock that was bought --

Q Let's tart at the beginning.

A I am going to if you don't interrupt me.

Q One moment.

MR. WOHL: I object to Mr. Rubinson interrupting the witness.

MR. RUBINSON: I would like to do it this way. If he is ready to tell us the story, I would like him to start from the beginning when he asked myself and Feiffer to look at this stock, what we said to him, and then let him go on fromthere, from the original Imperial Investment into Ballon-Smith.

We have to do that, your Honor, to get to the facts.

THE COURT: Mr. Rubinson, I will permit you to ask the witness whether he did something illegal or not in that particular case, and if so, what it was, briefly, but going into a long statement of what that case involved would not be permitted.

MR. WOHL: Your Honor, I believe that the question

before the witness was what he did that was illegal in the transaction, and he has recited some facts, and he seems to be saying that he has not completed his statement.

Now, I would submit that the appropriate thing to do here might be to allow him to complete his statement, and then it would seem, if it is not clear --

THE COURT: Yes, but don't tell us about things that you don't know are illegal.

We are only asking, or inquiring about, your unlawful conduct. That was the only reason he is permitted to inquire into it.

We don't want you to give us a long recitation involving a lot of other people.

The only purpose for permitting him to ask this question is for him to bring out that you have been involved in other illegal conduct since 1968, and he can inquire into that.

Now, please try to bear that in mind.

You have told us that you told the Government about a lot of things, but these questions are limited to something which you did which was improper.

Do you understand that? That you did.

All right. Now, finish your answer.

A I had the charity by about $20,000 worth of stock.

Q That is B'Noth Jerusalem, right?

A B'Noth Jerusalem.

Then all of those transactions were cancelled, they got their $20,000 back, and the deal was rescinded.

Q I must--

THE COURT: No.

A And the original transaction, where I filled Mr. Levine, I owned some shares together with the charity, they paid me part of the profit. They put up the money and we were partners.

That was my role in Imperial Investment.

MR. ANDREWS: May we inquire who was the "they"?

THE WITNESS: The charity.

MR. ROBSON: May I ask when this was?

THE WITNESS: 1968, 1969. I am not sure what the year was.

Q That was your entire role?

A No, that was not my entire role. That is what I --

Q -- did that was illegal?

A Yes.

Q Did you have knowledge in this particular case that a man was being helt captive, and did you go to the Police with that information?

MR. WOHL: I object to that, your Honor.

MR.RUBINSON: Now, that is illegal, not to tell the Police about what you know about a man being kidnapped and beaten and held in a hotel.

That is illegal, not to notify the Police.

If you are a citizen you have got to tell the Police everything you know.

MR. FISCHETTI: I don't understand the question. Is it this case?

THE COURT: Are you talking about this Imperial case?

MR. RUBINSON: Yes, Ma'am. He said that is all he knew about the case.

He knew because I brought it out he received a telephone call, they called him, they released a man, he gave back the money that they collected under the threat of his life.

I am trying to get into this whole thing to show who and what we are dealing with here. And if you limit me to this particular case after he says he was involved in 250 crimes which I was not involved, you are doing me an injustice.

THE COURT: I don't understand that.

MR. RUBINSON: It is very simple. It is very

simple, your Honor. This man says he was involved in 250 crimes, which I was not involved in.

THE COURT: He didn't claim that you were involved in those cases.

MR. RUBINSON: Okay.

I want to show why I wouldn't do business with that man and why I was not involved in this case, and why these people here who are my co-defendants --

THE COURT: He has not claimed you were involved in 250 cases.

You are permitted to ask him--

MR. RUBINSON: I lived with him as the group, the Stein-Feiffer-Rubinson Dancing Trio -- that's what we have heard here.

THE COURT: You can ask him about his testimony about that. Ask him about it.

MR. RUBINSON: About what?

THE COURT: About his testimony that you lived with him. You are permitted to ask him about anything--

MR. RUBINSON: I will get to that. I am not started yet.

THE COURT: You have five minutes left. Your two hours will be up in five minutes.

MR. RUBINSON: No, I'm sorry, I can't do this.

We had recesses, we had lawyers jumping up.

If I can't get into more depth with this man, it will be impossible. He is the star witness. We all waited for him. He gave up everybody, and I want to test him right now and see what kind of a person he is.

THE COURT: You have five minutes in which to do it.

MR. RUBINSON: In five minutes I can't do it. I can't --

THE COURT: You can't what. What did you say?

MR. RUBINSON: I can't even recite a poem in five minutes. I am not an attorney. I have an adversary that jumps up every two minutes to knock me down. We have all kinds of side bars. My hour hours became ten minutes.

5b pm

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THE COURT: No, I counted the time and excluded the time of the recess when we were discussing the matter.

MR.RUBINSON: I have got five minutes?

THE COURT: Yes.

MR. RUBINSON: All right, I will go fast.

BY MR. RUBINSON:

Q Did you receive a call from Miami? Did you call a man in Miami and did he call you back? The man was either Patsy Ara or Max Raymond, two well-known Mafia people? Did you know them? Did they call you?

THE COURT: Just a moment now.

MR. RUBINSON: I have to talk fast.

THE COURT: You were to ask him what illegal conduct he committed.

Q I am coming to that.

Did you know somebody was being held prisoner?

MR. WOHL: I object to the commentary by Mr. Rubinson saying these people are well-known.

MR.RUBINSON: They are written up in books.

THE COURT: Yes, that will be stricken.

Q Did you know somebody was being held captive in a hotel in Miami Beach?

A No.

Q YOu did not know that Jerry Devins was being held

captive in a hotel in Miami Beach?

A When? At what time?

Q In 1968 or 1969.

A No. When did I know?

Q I don't mean before. Did you know at any time he was being held?

A I knew it after it happened.

Q Did you make a deal to get him released?

A No.

Q Did you return the money that you and B'Noth Jerusalem got from the Imperial Investment case?

A You are talking about to get him released?

Q I didn't say that.

A I don't know what your question is.

Q Did you return the money you said you never got at the conclusion? You made a whole speech before.

Did you return the money?

A Yes.

Q Was that the money that you and I collected?

A No.

Q What money was it?

A It was money that came to B'Noth Jerusalem from brokerage firms in the form of checks, and part --

Q Okay.

A Will you let me finish?

Q Yes. I am letting you finish.

You don't mind if I am turning around.

A I think it is rude if you don't look at the person you are talking to.

Q I am sorry if I am rude to you. It is my privilege.

THE COURT: No, Mr. Rubinson, we don't conduct any trials like that.

You are not permitted to be rude to the witness. You may ask him questions, but you are not permitted to be rude.

MR.RUBINSON: I'm sorry, Mr.Stein.

THE COURT: We can't have any quarrels like that.

MR. RUBINSON: I'm sorry, Mr. Stein.

A What I was saying is that B'Noth Jerusalem bought a block of stock and I sold the stock from them from day-to-day, and when I found out that there were racket people and bad people in the deal, as you well know, I didn't want any part of it.

I was threatened, and yes, they threatened the man, and yes, they did grab a man, but they were never charged with kidnapping and they were charged with manipulation of a stock, which I had nothing to do with.

Q Did Phil Kaye help manipulate that stock?

A I don't know if he did or not.

Q Do you know who Phil Kaye is?

A You have asked me three times and three times I said yes, and you haven't let me finish--

Q Do you know he is a defendant in this case?

A I don't know that.

MR. WOHL: He hasn't finished.

MR. RUBINSON: I have five minutes. I want to try to get out the few items and sit down.

A If you don't interrupt and let me finish I will answer your question.

So what happened is there were about six or seven or eight or nine trades, and Devins was a partner to those trades, and the same way that Chester was backdooring us in the Stern-Haskell case, and Lockwood was complaining to us, I was backdooring the people in Imperial with the stock that Devins and I had bought as partners with the charity -- in other words, the charity bought the stock.

Devins and I were partners in that stock.

Q Me you don't have to tell. I was there.

A I want you to understand it, Mr. Rubinson. So we were partners. That's the president of the company and myself. He brought a man to me, this man sold the stock to the charity, registered stock, and we sold it

every day, and the people that were running the market didn't know about this stock, they were getting back-doored. They made the stock $8. We sold the stock $8. They made it $9, we sold it $9. They made it $10, we sold it at $10.

They had somebody that was pikcing it up, a brokerage house picking it up.

Finally they had to pay for it. When they had to pay for it, they didn't believe it, that the stock was there, they didn't know where it came from, so they became desperate and they grabbed the president of the company, Devins, and they held him and tried to find out who had the stock, and he told them that I had the stock.

And so they tried to harass me, and threaten my life, they were going to kill me and shoot me and so forth.

And so in order to solve that problem I said to them, "I don't want to have any part of the stock." I told the charity to return all the money to them, it is part of a public reocrd, it is part of a book, as you mentioned.

Don't make it sound like a big mystery.

Q It is a mystery.

A It is public reocrd. There was a trial twice. There were two trials in this court in front of Judge Pierce,

and another judge, where I was a witness for the Government.

And the money was returned to them, and the whole thing started over a backdooring operation like Chester was backdooring us, and that's the best way I can explain it to you.

THE COURT: Right.

Mr. Rubinson,your time is up.

MR. RUBINSON: Your Honor--

THE COURT: Mr.Chester, do you have any cross-examination?

MR. RUBINSON: I have at least 200 questions more. I would like to make application to this Court for additional time.

THE COURT: I will see at the end how long the others take. Then you can renew your application.

Right now, Mr. Chester.

MR. RUBINSON: One question.

THE COURT: Mr. Chester.

MR. RUBINSON: Just one question?

THE COURT: No, Mr. Rubinson.

MR. RUBINSON: There is one important question.

THE COURT: No. Mr. Rubinson, when the others have finished, I will consider your application for further opportunity.

* * *

THE COURT: Your time is up, Mr. Robson.

MR. ROBSON: May I at least ask one or two more questions, your Honor, to tie this up?

THE COURT: Not at this time.

MR. ROBSON: Your Honor, I must protest. I have never been so outraged by my inability to protect my client in a courtroom.

THE COURT: Mr. Chester, do you have any cross examination of this witness?

MR. CHESTER: Yes, ma'am.

THE COURT: You are next.

* * *

Q Did you put that down as an illegal crime to Mr. Doonan, the spin off of Calculator Computer in 1968?

A I don't know. You would have to look at the list.

Q I am asking you?

A I don't know. I think it is on the list.

Q You don't know whether it was a crime or not?

A That is not the question you asked me. You asked me did I put it on the list. If you let me hold the list here I will read it.

Q You already testified you put everything on the list, whether it was spitting on the sidewalk or whatever it is?

A I would have to look at the list for my memory.

Q For your information Calculator Computer is here, but my question to you is is a spin off a crime or is the subsequent market you made in Calculator Computer a crime?

MR. WOHL: I object at this time to Mr. Chester's referring to the contents of the list unless the list is in some way put into evidence.

MR. CHESTER: I would like to put this into evidence.

MR. ROBSON: If your Honor please, I would object to that.

MR. CHESTER: I would rather have his notes. I think his notes would be more complete than Mr. Doonan's notes, I am sure of it.

THE COURT: Can't you allow the witness to look at that to refresh his recollection?

MR. CHESTER: He has never seen it before, until today. These are Doonan's notes. He said he had his own notes which he left in Miami. And even though this shows Calculator Computer he could have told Doonan Calculator Computer, the crime in Calculator Computer was a manipulation of the stock, not the spin off.

I am only talking about the spin off, whether that was legal, but we can't tell from these notes and we don't have his notes.

A My notes wouldn't reflect anything but the names of the stock.

Q In other words, you just gave them names of stocks even in your notes?

A I made a note of the names of the stocks I gave him. Then I told him about the various stocks, and what he did with his notes, I don't know.

MR. CHESTER: I don't think it gets us any place,

just to give us the names of corporations, unless he gave what he thought his criminal activities were concerning each company.

THE COURT: You can ask him about it.

MR. CHESTER: I did but it was objected to.

THE COURT: Let the list be marked for identification at this point.

xx (Defendant Chester's Exhibit G marked for identification.)

MR. CHESTER: I want to put it in evidence.

THE COURT: There was an objection. State the grounds for your objection, Mr. Robson. It's now been marked as Defendant's Exhibit G.

MR. ROBSON: Could we make the objection at the side bar without cutting into Mr. Chester's time.

MR. CHESTER: Yes. Please don't cut into my time, Mr. Robson.

(At the side bar.)

THE COURT: What's your objection, Mr. Robson?

MR. ROBSON: First, this was some document prepared by someone who is not a witness.

More importantly it's got a whole batch of stocks on here. I don't know what these companies are. I don't want to open the door to all sorts of things that

may come into evidence as a result of this document going into evidence. It's a piece of paper I saw for the first time this morning listing all sorts of names.

If we put this in evidence we are going to have Mr. Wohl coming in with redirect testimony seeking to explain various things or whatever. I don't know. I think it is irrelevant and potentially highly prejudicial because of the doors it may open.

MR. CHESTER: I will withdraw it, your Honor.

THE COURT: All right.

MR. WOHL: One thing I think should be clear, by the way, is that I gave Mr. Robson a second piece of paper of which I had only one extra copy that refers to companies that Mr. Stein told the Government about so that that is not the only list. There are also other notes referring to the details of certain of these transactions that Mr. Stein described to the Government not giving lists, and I at this time don't think that the Government is required in this situation to turn over to the defense counsel Mr. Stein's detailed debriefing of some of the situations the Government was interested in and that he went into further detail and described exactly what happened.

But I wanted Mr. Chester and the other counsel to know that, because I don't think it is correct to imply

that these lists are the only records of those discussions.

MR. CHESTER: He said only from 1968 forward, as I recall.

MR. ROBSON: I just learned for the first time the Government has other material with respect to --

THE COURT: Of other crimes.

MR. ROBSON: -- of the crimes Mr. Stein debriefed himself of. Under the circumstances it clearly includes both 3500 and Brady material. This witness' motivation is a very, very considerable issue here. This witness is obviously facing prosecution, at the time he decided to cooperate, for dozens of crimes, the seriousness of which is very important in terms of his motivation.

THE COURT: I ruled on that yesterday, Mr. Robson. I ruled on that yesterday that you can ask him about any crime that goes back to 1968. Now, why are we going over this again?

MR. ROBSON: Because the Government says that they have details, 3500 type material, and he said he wouldn't give us details of those crimes after 1968.

MR. KEEGAN: He should make it available to the Court so the Court can pass on it. This is outrageous. In the middle of cross examination we are told he got more 3500 material.

MR. HIGGINS: May I just show on the issue of whether or not this information should be made available as 3500 or Brady material, Mr. Stein has consistently minimized his involvement in various stock frauds.

Naturally, it is part of this defense effort to show that Mr. Stein was the Numero Uno, as Mr. Weitzman characterized him, and to the extent that Mr. Stein has on cross examination attempted to minimize his role in the other stock frauds, clearly any debriefing memoranda which would show his force and his direction in those frauds, would be Brady material in that it would impeach his testimony so far to date.

MR. ANDREWS: Further on that point, I think in a case -- and if we can find one in which he has been formerly involved, in which there has been a price movement of the stock as small as the one in this case, i.e., less than a dollar, I believe, we can establish that he was doing a distribution which he did not need to do with the connivance of the broker making the market. I would like to have access to this other material to find if this isn't the usual method of Mr. Stein's operation, rather than skyrocketing the price, distributing 70 or 80,000 shares without significant movement in price without using the market maker or splitting with the market maker, which

as I am sure you have perceived by now, is the defense.

It is essential to look at his method of prior operation to the extent the Government knows it.

THE COURT: Let me ask you this, Mr. Wohl.

Yesterday, when we took this matter up, I believe you pointed out that as a part of the things which Mr. Stein had agreed to do for the Government was to debrief the Government with respect to all matters which he had been involved in, which meant up to 1968, I believe was the date.

MR. CHESTER: There was no date, but 1968 you said we could go into.

THE COURT: There were things beyond 1968 as I recall, that he debriefed the Government on, is that right?

MR. WOHL: He discussed with the Government things prior and subsequent to 1968. As a practical matter, as your Honor observed, the Government just wasn't interested in things that went back beyond the statute of limitations.

THE COURT: Yes, that was pointed out yesterday. So that he wouldn't have a motive to lie with respect to that because he couldn't be prosecuted anyway.

MR. WOHL: That's right.

THE COURT: And that is why the limit was set at '68.

Now, with respect to from '68 to the present time, does the Government have notes as to what he said about those transactions?

MR. WOHL: Yes, basically two types of notes. The list, the two lists, that I turned over to defense counsel this morning.

One list is merely a list of stocks, which is Mr. Doonan's list.

The other is a list which has about three or four stocks on it which also includes the names of persons involved in that transaction, and then it also states just in a very general statement, maybe two or three or four words, what the type of violation was.

Now, in addition-- those are the two types of lists that have been turned over.

THE COURT: In other words, they have a list--

MR. RUBINSON: Your Honor, I got no such list. I never saw it, and neither does Mr. Grimes. I never had this second list with names.

MR. CHESTER: Nobody has seen it.

MR. KEEGAN: I have seen it.

MR. ROBSON: I saw them and I passed them to you.

MR. RUBINSON: I didn't see it.

MR. ANDREWS: May I suggest this, your Honor? That such documents, if they exist in more detail,perhaps we can get them and take out the names of individuals involved and substitute broker,or things of that sort.

I am not interested in names of people. I want to know functions, roles, how he used people, and I don't think there is any prejudice to the Government if we do that.

MR.WOHL: I think, your Honor, the only problem area we have now with names is this third category of notes that have not been turned over.

So far as I can see, these notes appear to be notes made by other Assistant U.S. Attorneys who talked to Mr. Stein or people in our office who have talked to Mr. Stein in connection with looking into other situations.

They are notes of the details of the transactions to some extent that Mr. Stein was talking about that apparently were made by the people talking to Mr. Stein with a view toward possible prosecutions.

They include names of individuals who have or have not been indicted, they include names of stocks and other brief types of notes.

It is the Government's position that the material already turned over certainly provides an adequate basis on which defense counsel can cross-examine Mr. Stein,and if they want to know about what he did in other situations they can ask him about that.

We would submit the Government is not required,

when we put a witness like this on the stand, to in effect turn over all of the, what we would call law enforcement intelligence, that that witness has provided to the Government, because that would, in effect, compromise, we would submit, a substantial amount of the secrecy that is essential in certain kinds of investigations, and there would be very little purpose to it, because the defense counsel have a full opportunity to cross-examine this witness,and if they want to ask him whether he told the Government about a particular stock, they can ask that, and if they want to ask him what his method of operation was in other stocks, they can ask him about that.

But the function of this proceeding is not to embark on some kind of investigation to make sure-- to in effect grade Mr. Stein as to exactly how effectively and how totally he has cooperated.

MR. ANDREWS: The Government goes too far. I can see a situation where if he used market-maker A to distribute a stock he held like this without paying him--

THE COURT: You can ask him about it, as the Government says.

With respect to the list which has now been marked Chester Exhibit G, does that contain a list of all the stocks he told the Government about, Mr. Wohl?

MR.WOHL: There is one stock that is not on this list that is on the other list I have already turned over.

THE COURT: Get that other list so we can mark that.

MR.RUBINSON: Your Honor, I would like to say why I would like to see the list.

I was trying to bring forth yesterday that Mr. Kaye, who pleaded guilty in this case, was doing business with Mr. Stein long before I knew him and is still probably doing business with him.

THE COURT: Let's not go into that. We are trying to get this straight on the record.

MR. RUBINSON: That is why I want to see the list.

THE COURT: Just a minute.

Mr. Clerk, give this yellow sheet of paper the next Government exhibit number, or perhaps a Chester number.

xx (Defendant Chester Exhibit No. H marked for identification)

THE COURT: I don't want to be interrupted when I am trying to get something straight on the record, as to a subject.

MR. ANDREWS: On this matter, all I can say is if I were to go through all the stocks, how did you do it, even in a most peremptory manner, it would take the whole two

hours.

If the Government has a precis of his operation in the stocks I could use my time economically.

THE COURT: The only thing you can bring out is did he engage in some illegal activity.

MR.ANDREWS: He said each of these is illegal, and if I can find situations in each of these where he used a market-maker as he used my client here, I am sure your Honor can appreciate the probative value of it.

THE COURT: You can ask him about it.

MR. ANDREWS: And be bound by his answer--

THE COURT: Yes, because this is a collateral matter, you are bound by his answer.

We are not going to have here, Mr. Andrews, for the fiftieth time, a trial of everything Mr. Stein has been involved in. We are not going to have it.

If you raise it once more -- I have ruled on this now fifteen times -- if you raise this question once more, I am ruling on it and telling you again that you are not going into the details of it -- I am going to hold you in contempt of court because you have a way of arguing with every ruling I make, everything I say.

You think you have the right to prolong the trial and argue about it. I am ruling for the last time that we

are not going into the details of all of these transactions that Mr. Stein has admitted to, because that would involve this trial, as you yourself admit, in weeks and weeks and weeks and weeks, so we are not going into it.

YOu ask him what he has done illegally about each and every one of these things and let it go at that, because that is my ruling, that we can't have this kind of trial with yougoing into details and asking him to describe the facts in every transaction.

You are permitted to bring out if he has engaged in other illegal activity which has not resulted in a crime. It goes to his truthfulness and that's all.

I am not going to take this subject up again.

MR. ANDREWS: I understand.

THE COURT: This is marked Chester's H, and that is a second list, because Mr. Wohl has said there is another stock listed on here not listed on G.

We are going to recess now for lunch.

MR. GRIMES: I have one suggestion to make, your Honor.

MR. ROBSON: Before you recess --

(In open court, jury present)

THE COURT: We are going to recess for lunch now. The jury is excused until two o'clock.

* * *

Q Did Allan Electronics spin off another stock dividend in 1968?

A I don't know. You will have to tell me the name of the company. They spun out two or three companies.

Q The name of this company, as I recall, was David Auld.

A Yes, they did.

Q Before I get to that, is Calculator Computer Leasing still being traded, if you know?

A It is.

Q It still is?

A Yes.

Q Since 1968 to 1975, as far as you know, it has never been suspended by the SEC?

A It has never been suspended.

Q Nor has it ever been registered with the SEC?

A I don't know what the company is doing now. It was not registered when it was given to the stockholders at Allan Electronics.

Q Was David Auld the second spin-off which was a liquidating dividend from Allan Electronics-- was it registered at the time it was spun off in 1968?

MR. WOHL: Objection. It seems to me this is irrelevant and we are getting into all these other spin-offs

that I thought we--

THE COURT: Yes, objection sustained.

You can ask him about any illegal activity in which he engated with respect to those, but we are not going into detailed discussion of what companies were registered and what companies were not.

MR. ROBSON: Your Honor, may I just point out that on direct examination this witness testified that the spin-off of Stern-Haskell was different from other spin-offs he had been involved with, which is why he didn't think it was the proper or best way to go about it.

THE COURT: We are still not going into a discussion of all these other spin-offs and wehther they were registered or unregistered.

* * *

* * *

Q Did you believe when Stern-Haskell was spun out that that was a legal transaction?

A Yes.

Q Yes.

A I thought it was marginal, but it was legal.

Q Marginal, but legal?

A Right.

* * *

Q The company, Stern-Haskell, Inc., it could have been a good company. It was promising, was it not?

A I think it is a good company now.

Q I mean National Ventures just didn't distribute stock in a piece of shell? In other words, it distributed stock in a viable company which was making 11 or $12 million a year in volume, is that correct?

A You mean their sales volume?

Q Yes, that's correct.

Q And if the SEC hadn't started the investigation probably this would have been even maybe four times as big a company, isn't that correct?

MR. WOHL: Objection.

THE COURT: Sustained.

Q Has the stock ever been suspended in Stern-Haskell of your own knowledge, from 1969 to date?

A I don't think it ever has been, but I am not sure.

Q Some people were enjoined from trading in it but it's never been suspended so far as you know, is that correct?

MR. WOHL: Objection. Whether it has or not is irrelevant.

THE COURT: Yes. Sustained.

* * *

Q Now, out of all the stocks that you traded, bought and sold since 19-- let's say it was restricted from, say, 1968 and 1969, how many of those stocks were not registered with the SEC as spin-off stocks, if you know, approximately?

A I would say under a dozen.

Q Is it not true that during the year 1968 and 1969 that many companies were using the method of liquidating dividends and using a spin-off method to make public companies out of private companies?

MR.WOHL: Objection. Whether lots of companies were doing this is entirely irrelevnat.

THE COURT: Sustained.

Q From your own knowledge as an expert-- apparently you are an expert in this field --

MR. CHESTER: He is an expert, Judge.

MR. WOHL: Objection on the same ground.

THE COURT: Yes, sustained.

Q In this poop sheet we got this morning, of all the companies you named there is a company called Harwin Industries.

Do you know them?

A Yes.

Q Did you ever commit any crimes with them?

A Yes.

Q Do you know whether they spun off five companies in 1968 and 1969?

MR. WOHL: Objection, your Honor.

THE COURT: Sustained.

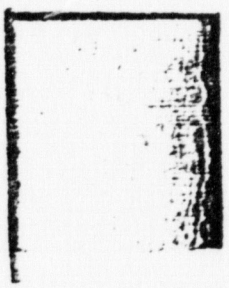
Q Are you aware that July 2, 1969, there was a release from the SEC concerning their quetioning of the legalities of spin-offs after that date?

MR. WOHL: Objection, your Honor.

First of all --

THE COURT: Sustained.

* * *



* * *

Q He asked you to help him do a public underwriting, Weitzman, didn't he?

A No.

Q What did he want you to do, to distribute his stock?

A You are talking about when I first met him?

Q When he asked you to help him with his business.

A No. We didn't talk about an underwriting when he asked me to help him with his business.

Q Did there come a time when he asked you to do a public underwriting of Blank Furniture Company?

A Yes.

Q And you discussed that with Weitzman?

A Yes.

Q And you agreed to assist him in doing that public underwriting, did you not?

A Yes.

Q You agreed to assist him by using the financial contacts that you had in New York, did you not?

MR. WOHL: Objection.

May we approach the bench?

* * *

Q Mr. Stein, you offered to assist Mr. Weitzman in conducting the public offering of the securities in Blank Furniture, is that correct?

A Yes.

Q And you offered to assist him, among other things, to obtain an underwriter to do the deal, is that correct?

A Yes.

Q And you consulted Mr. Levine on the prospect of Mr. Levine doing that underwriting through Lockwood &

Company, is that correct?

A I think so, but I am not sure.

Q You don't remember?

A I am not really sure about that.

Q At any rate, Mr. Levine declined to do that underwriting, isn't that so?

A No question about it.

Q That happened in the early spring of 1969, isn't that correct?

A I don't recall.

Q You met Mr. Weitzman in the summer of 1968, true?

A I am not sure what the dates or weeks or months were.

Q You met him prior to the Stern-Haskell deal, isn't that correct?

A Yes.

Q And the Blank Furniture underwriting was discussed prior to the Stern-Haskell deal, isn't that correct?

A Yes.

I don't know. It may be about the same time. I am not sure.

Q About the same time?

A I don't know the exact date. If you have a document, please show it to me. There is a prospectus. Show

it to me and I will be able to refresh myself.

Q It isn't important.

Mr.Levine declined to do that underwriting?

A Yes.

Q Notwithstanding the fact that you requested he do it; isn't that so?

A Yes.

* * *

* * *

Q You pleaded guilty to manipulating stock. You wouldn't want it to go overnight --

A Are you telling me I was manipulating the stock when I went to Gardner?

The answer is no.

Q You pleaded guilty to manipulation?

A Some time later.

Q How much later?

A When I started doing business with Lockwood.

Q You expected the price to gradually move up, though, is that correct?

A That's correct.

Q But at some point in time you became dissatisfied with Gardner Securities?

A Yes.

Q Is that correct?

A Yes.

Q You were watching the sheets every day, day in and day out, calling the broker, the price is not moving like you want it to, isn't that correct?

A Not really. He just wasn't retailing the stock. He was buy doing other things, or whatever his business was. I think he handled two or three hundred shares or five hundred shares of stock.

He just wasn't being active in the stock. Why, I don't know.

Q You gave him a fair chance, didn't you?

A Yes.

Q YOu gave him a pretty good chance to get the market going?

A Yes.

Q You gave him a chance to go out to talk to other brokers the way brokers do and there is nothing wrong with that?

A No.

Q "I have a pretty good tip on a stock," there is nothing wrong with that?

A I am not using the word "tip."

Q "I have a great company" --

A I don't know what brokers tell brokers --

Q You have no experience in that?

A Unless I am there and I hear what they say. If you are asking me did he tell anytody it was good or great, I don't know.

Q But you expected that he would create interest in the stock?

A In a normal business-like way.

Q Yes, take his time, talk to people, make a market, correct? have an opportunity to tell people about the stock, tell customers about the stock-- that is what you expect to happen?

A That is what I told him or I expected?

Q What you expected.

A I expected him to make a normal market. He was an experienced man. I had met him before. He had been with a New York Stock Exchange firm, he started his own business, he opened up with several people and he attempted to become a broker.

His business was open a short while and I expected that he would make a market in the stock --

Q You expected he would make a normal market?

A In a normal way.

Q What is your definition of making a normal market in a normal way? How do you expect a broker to

do that?

A By contacting brokers, contacting customers, by being generally interested in the company and doing the things a broker does.

Q You say Mr. Gardner was busy doing other things and he really didn't get into the stock?

A I said I supposed he was busy doing other things, because he didn't get involved in this stock.

Q You didn't expect him to do it overnight, did you?

A No.

Q You were going to give him a fair amount of time to do it, isn't that correct?

A Yes.

Q How long would you say is a reasonable amount of time?

A I can't measure it by days.

Q Well, by weeks, by months -

A I can't measure it by weeks. I don't know what is a fair time.

Q Is two weeks a fair amount of time to see whether you are getting interest in the stock?

A Not really.

Q Three weeks a fair amount of time?

A Sometimes there are mitigating circumstances, sometimes a broker doesn't have information, sometimes it takes time for them to get into thepink sheets, sometimes they wait and do their due diligence.

There are lots of reasons why a broker doesn't start at the beginning.

Q But you gave him plenty of time to get started?

A Yes.

Q Then you became dissatisfied, isn't that correct?

A Yes.

Q Then you decided to go to Larry Levine and so you had a meeting with Rubinson Feiffer, isn't that so?

A Yes.

Q And you discussed with them the prospects of going to Larry Levine, correct?

A Yes.

Q And it was agreed that you should go to talk to Larry Levine, correct?

A Yes.

Q So you went down to see Larry Levine at Lockwood & Company?

A Yes.

Q Or you may have seen him at dinner?

A Or wherever.

Q Or maybe at the apartment?

A Or wherever.

Q And you had a talk with him about this company, Stern-Haskell, and you told him it was a really good company, isn't that correct?

A I told him all the things that I knew to be -- about the company that I knew at the time.

Q And he indicated some interest in the stock?

A Said he would look into it, yes.

Q And he wanted to go see the company, maybe?

A Yes.

Q Talk to the executives?

A I think he told me that.

Q Apprise himself of what the company was all about?

A Yes.

Q And he said he would get back to you, correct?

A Yes.

Q And did get back to you after a while, isn't that so?

A Yes.

Q How long a time after a while?

A I don't remember.

Q Well, enough time for him to have visited the company, if he wanted to, to have met the executives, if he

wanted to?

A Some short time later.

Q A week?

A I don't know.

Q It wasn't that afternoon, was it?

A No.

Q Three or four days later?

A At least that, or more.

Q Then you had a second meeting with him, isn't that correct?

A I had a lot of meetings with him.

Unless you tell me what the meeting was about, I have to say I have had a lot of meetings with him.

Q You had a second or third meeting with him at which you discussed the amount of the pay-off he would receive, isn't that correct?

A I don't recall when that meeting was, second, third, fourth, fifth, sixth.

I don't want to be pinned down to a specific meeting unless you know of the date.

Q There were three or four meetings before you came to agreement that he would become the market-maker in the stock?

A Yes.

Q Five meetings or maybe six?

A Whatever, right.

Q All of them at different times, different days, correct?

A Yes.

Q Different people present at each meeting?

A Yes.

Q At some point in time, the second or the third meeting, you made an arrangement as to how much money he would get as a payoff?

A Yes.

Q After that, after the meeting of the minds, Larry Levine agreed to be the market-maker in the stock, isn't that correct?

A Right.

Q And then he went into the sheets?

A Yes, sir.

Q And he started to make a market, isn't that correct?

A That is correct.

* * *

* * *

Q You testified that Mr. Levine told you he got money

from Phil Kaye, is that correct?

A I don't recall. You would have to read it to me.

Q Is it a fact that Mr. Levine never told you he got money from Phil Kaye?

A My best recollection is that Mr. Levine acknowledged that Mr.Kaye had been to my apartment and picked up the money.

I don't recall telling you that Mr. Levine told me that Mr. Kaye gave him the money.

Q As a matter of fact, Mr. Levine never told you Mr. Kaye gave him money?

A I don't recall it.

Q You can't testify that Mr. Levine ever told you that Mr. Kaye gave him money?

A I said I don't recall it.

Q You cannot testify under oath that Mr. Levine -

A I just told you I don't recall.

MR. ANDREWS: Your Honor, will you instruct him to let me finish my question?

THE COURT: You let him finish his answer.

Q You cannot testify here today in this courtroom that Mr. Levine ever told you Kaye had given him money, isn't that correct?

A My answer is I don't recall it.

Q Therefore you cannot testify that Levine ever told you that Kaye had given him money, isn't that correct?

A I am saying I cannot recall it.

THE COURT: Listen to the question, Mr. Stein.

Q If you cannot recall it, then you cannot testify under oath that Levine told you that Kaye had given him money, isn't that correct?

A Yes.

Q And it is not your testimony that Levine told you Kaye had given him money, isn't that correct?

A Yes.

Q As a matter of fact, you don't know whether Kaye kept all the money or not, do you?

A I don't know.

Q As a matter of fact, Kaye may have kept all the money you gave him, isn't that correct?

A T hat's correct.

Q And you never gave money to Mr. Levine, isn't that correct?

A That's correct.

Q And you never gave money to Mr. Wax, isn't that correct?

A That is correct.

* * *

* * *

CROSS-EXAMINATION

BY MR. RUBINSON:

Q Mr. Stein, you testified here when Mr. Andrews was asking you questions about Mr. Gardner going into the sheets on April 16 and then a meeting that took place subsequent to that and Mr. Gardner didn't do a good job so now you went and put Mr. Lockwood in, is that correct? That is the gist of it?

A Yes.

Q That is between April 16 and April 20 that you had the meeting?

A No.

Q When did you have this meeting?

A That is what Mr. Andrews said.

Q I am asking you, when did you have this meeting?

MR. ANDREWS: Objection to that witness' conclusion. Let the jury decide who said what.

A I will answer your question, Mr. Rubinson.

Mr. Andrews brought up a nice calendar and he gave me some pink sheets and he gave me a date, then he stopped.

Let's go back to this calendar. As we go back to the calendar, we will find out what the facts are.

Q Let's go to the pink sheets.

A I am going to go back to the pink sheets.

THE COURT: Mr.Rubinson, stay back there, please.

MR. ANDREWS: Your Honor, to save Mr. Rubinson's time, I want the Government to stipulate that Mr. Gardner started the market on the 16th and Mr. Levine appeared for the first time on the 24th. To save the time of the Court. I think the Government will stipulate.

THE COURT: Is the Government prepared to stipulate to that?

MR. WOHL: Yes, we will stipulate to that, your Honor.

THE WITNESS: It is not true.

MR. WOHL: I will withdraw the stipulation. I think the witness should be allowed to answer it.

THE COURT: YOu disagree with that?

THE WITNESS: Yes, your Honor.

THE COURT: You may answer it.

THE WITNESS: You gave me these and I started to study them. You said I know how to read.

A On the 24th Lockwood goes into the sheets. No price. On the 25th they go in, no price --

MR. ANDREWS: If it please the Court, it is wasting the Court's time --

THE COURT: Just a moment, Mr. Andrews. We have gone over this and I am permitting him to answer the question.

Please sit down.

A On the 28th--

MR. RUBINSON: I want to withdraw that question.

THE WITNESS: I want to finish it.

MR. RUBINSON: He will read the whole pink sheets and there goes my whole five minutes.

I want to withdraw the question.

THE COURT: I will give you five more minutes after that. Let him finish the answer.

A I am going to go quick so I don't waste up your

five minutes.

The 28th, no price. 29th, no price, and so forth.

However, on May 8th, and what was the original date?

THE COURT: April 9th.

A Now I am down to May 8th. That is a month later. A month later--

MR. ANDREWS: Is he trying to save the Government by summing up? I would like to sum up, too.

MR. CHESTER: You are getting into my ten minutes.

THE COURT: Sit down, Mr. Andrews.

A On May 8th these sheets reflect Gardner Securities 2-4. Lockwood Securities 3-4. From blank blank to 3-4.

Q You answered my question, not Mr. Andrews'.

THE WITNESS: You led the jury to believe before that we had a six-day meeting.

THE COURT: Answer Mr. Rubinson.

Q When did you have this alleged meeting with Gardner Securities to rig the market?

A I don't recall what date but it certainly wasn't six days later.

When did we have the meeting?

Q When did you have the meeting? Don't put me and Feiffer in all the time. We are not a trio as everybody

can see.

A I don't recall the day that we had the meeting.

Q Did you testify that after Mr. Gardner was disenchanted you put Lockwood in?

A I dind't say that.

Q What did you say?

A I said when we were disenchanted with Gardner, we put Lockwood in.

Q Was that immediately after? Lockwood went in four, six days later, was it that time we had a meeting?

We, I put myself in.

A I don't recall the date.

Q You can't recall? You don't want to recall?

A I want to recall.

Q Take one minute.

A You were there, maybe you can recall the date and I will agree with you if it is the right date.

MR. RUBINSON: I would like to mark this for identification from page 237 to page 300. I want to put this in evidence.

THE COURT: May I see it, Mr. Clerk?

You want to put the whole document in evidence?

MR. RUBINSON: Yes, Ma'am. It is very important.

THE COURT: Let it be marked at this time.

xx

(Defendant Rubinson Exhibit C marked for identification)

THE COURT: Let the Government see it.

MR. CHESTER: Judge, that will take a long time. Why don't we decide Monday whether that will be admitted?

MR. RUBINSON: It is all right with me.

MR. WOHL: I will object to it at this time, your Honor, and I would like to have some time to review it.

I hadn't anticipated that Mr. Rubinson was just going to offer it in.

MR. RUBINSON: I will be happy to concede so you can go over this Monday because I am waiting for a telegram.

THE COURT: You hafe bout four minutes left, Mr. Rubinson. The Government will go over that over the weekend and we will take it up Monday.

Do you have anything else in the next four minutes?

MR. RUBINSON: Yes.

THE COURT: Not from that document. It is not in evidence.

MR. RUBINSON: Will I be able to go into this on Monday?

May I have four minutes on Monday because I must read from this certain things to impeach this man's testimony.

THE COURT: As to the date when you first met?

MR. RUBINSON: It is not a date. He said from April 26th,around that, we were in Las Vegas, him and I, and it can be proven that we had no such meeting with Lockwood and we had no such meeting with Michael Gardner.

We were in Las Vegas and it can be proved.

THE COURT: What date?

MR. RUBINSON: We were in Las Vegas -- I have some other things in this book that will impeach his testimony.

THE COURT: He testified on direct --

MR. RUBINSON: On direct. In 1970, October 5th, less than nine months later.

THE COURT: What do you claim he testified?

MR. RUBINSON: It says "Question" --

THE COURT: Will you listen? What do you claim he testified on direct that you now want to impeach?

MR. RUBINSON: He testified that we made a deal in between Gardner and Lockwood in those days.

THE COURT: What days?

MR. RUBINSON: April 16th to the 25th.

MR. ANDREWS: To the 24th.

MR. RUBINSON: We had no such meeting.

THE COURT: And you have that in there?

MR. RUBINSON: Yes.

THE COURT: You can ask him if he previously testified to that.

Q Did you previously testify on October 5, 1970 in this court before Judge Mansfield that we were in Las Vegas October 24, 25 and 26?

MR. WOHL: What page?

MR. RUBINSON: 263, 264.

THE COURT: In October?

Q I am sorry; April 24, 25, 1969.

A Yes.

Q That refreshes your memory.

So we had no such meeting?

A I didn't put a date on this meeting yet.

MR. ANDREWS: Objection. He put the meeting between the 16th when Gardner went in the sheets and the 24th when Lockwood went in the sheets.

THE COURT: Let's move on.

MR. RUBINSON: I have one more question, then I will sit down.

Q You testified on direct here, and you keep saying Feiffer, Rubinson, the trio.

A I haven't used the word trio.

THE COURT: Please don't make any comments.

Q The group.

A I haven't used the word group.

Q Stein, Rubinson and Feiffer, then Harry Silber came later?

A Okay.

Q You testify that you worked on many many deals in reference to the question Mr. Andrews asked you about keeping records, and you said well, we were working on a lot of deals at that time so we didn't have much time for keeping records, changing them every week; is that what you siad?

A I don't know what the exact wordage is.

Q About the money, that is more or less correct?

A Yes.

Q Thank you.

On page 242--

THE COURT: Yousaid you had one more question.

MR. RUBINSON: Now I am going to impeach him.

Q It says right here --

MR. WOHL: Objection. This performance--

MR. ANDREWS: Object to that. The man is defending himself.

MR. WOHL: The Government moves--

MR. ANDREWS: He wanted a lawyer and Mr. Wohl

opposed it.

THE COURT: Just a moment.

Mr. Andrews, would you please not shout out anything again like that?

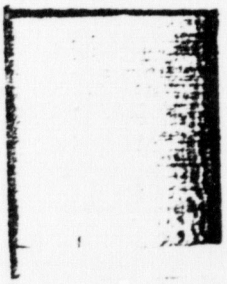
MR. ANDREWS: Yes, your Honor.

MR. RUBINSON: Page 241.

THE COURT: Would you read what is on 241 then.

Your time is up.

* * *



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Motley

UNITED STATES OF AMERICA

v.

74 Cr. 573

NORMAN RUBINSON, et al.

RETURN TO ROOM 633 FOR FILING

March 3,1975
10:00 a.m.

(Trial resumed)

(In the robing room)

MR. WOHL: Your Honor, with me is Louis Corsi, who is another Assistant United States Attorney in our office.

Mr. Corsi's office is located very near the telephone booths in the hallway near Courtroom 318, or outside of Courtroom 318, and apparently last Friday morning at approximately ten o'clock Mr. Corsi heard a conversation between one of the defendants on trial, Mr.Haskell, and one of the jurors.

From Mr. Corsi's description to me I gather this to be Juror No. 1, but I can't be certain of that.

I have Mr. Corsi here now. Perhaps he can describe to your Honor what the conversation was, as well as he can recall.

MR. CORSI: Your Honor, the case, as you well know, has been going on for a while and my office is right by the telephone booths, and I have come to know, I believe, by face the various parties in the case.

One of the jurors, I saw her go into the telephone booth and she was making a phone call. And during the course of her conversation, the other phone booth was occupied, also. One of the defendants, and I believe it is Mr. Haskell, came by and he was looking for one of the phone booths, checked the first one and that was occupied, checked the second one, it was occupied, and I could hear the-- I believe the juror in there saying, "Well, I've got to get off because someone else is looking to use the phone."

At which point Mr. Haskell in a loud voice said, "Don't worry, don't worry. Take your time, we have got time."

In a few seconds she got off the phone and was coming out of the phone booth, and at that point,I am not sure how the conversation was initiated, who initiated the conversation, but there was a reference to, "Oh, there are tapes, and there are more tapes than in Watergate."

And then the other person said, "Well, yeah,but these tapes are more interesting than Watergate."

Then I distinctly heard the juror say,"Well, I am learning an awful lot in this case."

I believe, again, Mr. Haskell responded, "Yeah, I am getting an education, too. Everyone made money in this deal except me. I lost $200,000, and I still have to pay these lawyers."

At that point-- the conversation I would say took 20 to 30 seconds. At that point I started getting up out of desk because I wanted to go out there and say this shouldn't be -- you know, the conversation should be at an end. As I got out from around my desk, walked out into the hall, the conversation pretty much came to an end, and the juror walked off and said, "Well, I'll see you back in there," and that was the extent of the conversation.

At that point I notified Mr. Wohl.

MR. FISCHETTI: May I ask Mr. Corsi if he saw Mr. Haskell engaging in this conversation, or is it something he heard?

MR. CORSI: I saw him. Where my desk is situated it is at such an agle-- they were out in front of the furthest phone booth, there were two, and they are in the furthest one and the angle of my desk is such that I can see the phone booth.

When I walked out I saw the two of them.

MR. FISCHETTI: Did you see Mr. Haskell talking to the juror, or did you just hear and then see Mr.Haskell?

MR. CORSI: No, I saw him.

MR. FISCHETTI: All I can say is during the course of this trial I have instructed my client, as I am sure other defendants have been instructed by their counsel, not to meet, not to talk, not to have any conversation with the jurors.

I know myself on more than one occasion I would have coffee downstairs and there would be a juror there, and I would just leave the room.

I have also left elevators, and I have seen--

THE COURT: Is there a coffee stand downstairs?

MR. FISCHETTI: There is a machine downstairs.

Mr. Haskell, Judge, as your Honor has observed him during the course of this trial -- I am not attempting to explain his conduct-- he is a 62-year old used car salesman,and very gregarious. I apologize for this incident. I will speak to Mr. Haskell about it. I don't think it changes the course of --

THE COURT: Suppose we have Mr.Corsi identify Mr. Haskell first. I will go out there with you.

(Pause)

(Mr. Haskell present in the robing room)

MR. FISCHETTI: I have just been informed of another item I think I should bring to the Court's attention.

THE COURT: Just a moment.

When Mr. Corsi and I went out to the door Mr. Haskell was standing-- is that right, Mr. Haskell, when we appeared at the door you were standing?

MR. HASKELL: Yes, Ma'am.

THE COURT: The U. S.Attorney said to me, "The man who is standing is Mr. Haskell."

So I was able to identify Mr. Haskell.

MR. HASKELL: Yes.

THE COURT: Now, Mr. Haskell, did you have a conversation with one of the jurors last Friday at the telephone booth?

MR. HASKELL: I was waiting to --

THE COURT: Did you have a conversation with one of the jurors at the telephone booth last Friday?

MR. HASKELL: Yes, Ma'am.

THE COURT: Which juror was it?

MR. HASKELL: The blond girl. I don't know their names. I reall don't know their names.

THE COURT: Where does she sit?

MR. HASKELL: She sits in the No. 1 -- she sits in the No. 1 seat.

THE COURT: What did you say to her?

MR. HASKELL: Well, first I was waiting for her to get through with her telephone call, and I didn't recognize her through the window as she was talking because I didn't know who it was.

When she got out I waited for her coin to drop, and I did speak to her, I said that it was an interesting case, wan't it, or something like that. And there wasno further conversation. I just put the 10 cents in, and I made my call.

THE COURT: That's all you said to her?

MR. HASKELL: That's -- I am sure that's all I said to her.

THE COURT: Did you say anything about Watergate or tapes in Watergate?

MR. HASKELL: I didn't say anything about tapes-- yes, I did. I said "This is more interesting than Watergate." Yes, I did, your Honor. I think that's about all I did say. As a matter of fact, I didn't even make the call because we were called in for ten o'clock.

THE COURT: All right, you can step outside for a minute.

(Mr. Haskell left the robing room)

THE COURT: All right, what do you say, Mr. Fischetti?

MR. FISCHETTI: Judge, in the first place, I apologize for the occurrence. There should be no contact with any of the jurors either by defense counsel or by defendants.

Your Honor well knows that and I am sure the Government knows that and my co-counsel agree. It is an unfortunate situation.

However, I don't think, taking Mr. Corsi's conversation as related by him in its entire context, assuming it to be exactly accurate and truthful, I don't think that there was anything said to that juror which had not already been placed in evidence, nor did Mr. Corsi indicate that Mr. Haskell attempted to influence the juror to have her change her opinion either favorably or unfavorably toward any of the defendants in this trial.

So I think although the contact was unfortunate and should be criticized by the Court, and I will criticize Mr. Haskell for it, I don't think any action should be taken in the context of the trial.

I don't know if my colleagues agree with me or not.

THE COURT: What do you say, Mr. Wohl?

MR. WOHL: Your Honor, it would seem to me that basically what Mr. Haskell said is what he -- I don't

know whether it is what he would testify to if he took the witness stand, but in effect it is a largely exculpatory story that he has given to this juror of himself. To some extent it is an inculpatory story, I suppose, as to other defendants, because my recollection is that he said something to the effect that everybody else made money.

THE COURT: Oh, yes, let me ask Mr. Haskell about that.

Ask him to come back.

MR. FISCHETTI: While your Honor is asking Mr. Haskell, I think the Court should know that was Mr. Wohl's opening statement, that Mr. Haskell did not profit during this but others did make money. In fact, Mr. Stein testified that others made money and that Mr. Haskell, in his exact words, "was taken and had."

(Mr. Haskell entered the robing room)

THE COURT: Mr. Haskell, did you say anything to that juror about you having lost $200,000, everybody made money except you?

MR. HASKELL: I believe so. I said this case cost me and my business $200,000. I don't think I said anything about anybody else in the case. I just said that my business lost a lot of money on account of this.

THE COURT: Did you say that everybody else made

money except you?

MR. HASKELL: Judge, I really don't remember, and I don't believe that I made that type of remark,but I did-- I did say that my business suffered. I said, "Imagine me losing $200,000 because of this case?"

I believe I did say that, your Honor.

THE COURT: Did you say you still had to pay the lawyers on top of it?

MR. HASKELL: I don't remember that, your Honor.

THE COURT: All right.

(Mr. Haskell left the robing room)

MR.FISCHETTI: If I can continue for a moment, I believe Mr. Stern also testified that Stern-Haskell lost in excess of $100,000, and again I reiterate that I followed Mr. Wohl's statement on his opening very carefully and he did say that Mr. Haskell did not profit from this enterprise but others did.

Mr. Stern also testified that Mr.Haskell did not make any money out of this, and Mr.Stein also testified that Mr. Haskell was taken and was had.

I am not attempting to explain his actions. I amtrying to lay before the Court that perhaps his remarks, though ill-advised, were based upon the evidence elicited and not his own personal feelings.

MR. WOHL: Your Honor, I think Mr. Fischetti is correct, that the Government has never contended that Mr. Haskell profited from this series of transactions, and consequently his statement is consistent with the evidence.

On the other hand, I don't recall any testimony suggesting that Mr. Haskell, or his business, lost any $200,000 as a result of this series of transactions.

Obviously, there hasn't been any evidence that he is financially strapped to pay the lawyers, and that sort of thing.

It would seem to me it is a conversation that certainly the purport of which would be designed to evoke sympathy for Mr. Haskell on the part of that particular juror.

It would also seem to me that Mr. Haskell, by this contact, obtains whatever benefit would be obtained, at least with that juror, wihtout having to get on the witness stand and saying the same thing.

It is mye xpectation Mr. Haskell probably will not take the stand.

There is also the problem of the rather ambiguous remark about everybody else made money while Mr. Haskell lost money.

I think that several of the defendants here are

probably going to take the position impliedly or explicitly that they did not necessarily profit from this series of transactions, and sothere is an additional problem.

I am also concerned, I must say, about the fact that the juror would stand there long enough to participate in this sort of conversation. It is true that it didn't take very long, but it seems to me that the proper response of the juror would have been to avoid any conversation and just leave the area immediately, although I suppose you have to recognize that the juror is inexperienced in trial matters.

I must say I would be very interested to know whether that juror communicated this conversation to the other jurors. If she did not, then I think that our problem is considerably more limited than it would be if she did communicate it to the other jurors.

THE COURT: I suppose we should get her in here and ask her about it.

Do you want to ask Juror No. 1 to come in?

MR. HIGGINS: Your Honor, I would request perhaps in talking to the lady, the No. 1 Juror, that if we could all maybe sit down. It seems kind of ominous to have us all standing huddling around here. I think it is more likely to get a relaxed type of atmosphere --

MR. FISCHETTI: The judge could see her alone.

MR.HIGGINS: Your Honor, you could see her alone on the record. To have us all standing around may scare this gal and evoke some confused responses on her part.

MR. ANDREWS: The incident seems to be --

THE COURT: Please don't refer to her as a gal.

MR. HIGGINS: I'm sorry. It is something I refer to my wife as. It is perhaps my own ignorance.

MR. ANDREWS: It seems equally damaging and prejudicial to both sides. We were hurt by the inference everybody made money. The Government is hurt by the inference--poor Jerry Haskell is beat.

Perhaps it might be better to ignore it rather than magnify it by bringing the juror in and arousing the signal curiosity of others as to what it was about, when they are going to be here together for weeks.

It seems to me the damage that would flow is de minimis now. I really thinkg we are going to magnify it. This is a young woman. She may be intimidated. She probably ignored it. To her it was nothing but a passing conversation, it seems, coming out of the phone booth.

My own view is that perhaps it ought to be ignored, unless everyoine feels strongly it ought to be inquired into.

MR. FISCHETTI: I would, of course, prefer to ignore it, your Honor.

THE COURT: Do you want to say something, Mr. Keegan?

MR. KEEGAN: Yes. My feeling is what was said isn't terribly inconsistent with Mr. Fischetti's position. My client is not involved. I would prefer to ignore it. I would prefer to leave if the Court does feel a need to talk to her. It may magnify the matter with other jurors as to what it was about.

MR. ANDREWS: It most certainly will magnify it. The incident doesn't seem to have brought out any damage.

MR. CHESTER: I think it is fair on both sides. Like Mr. Wohl and Mr. Stein said, he finally told Haskell he was taken, "You have been a sucker, you have lost money, and forget it."

It is certainly going to be my position I made no money. Mr. Wohl is going to try to show I made money. I think on both sides it comes out equal. I don't think anybody has been hurt and I don't think it should be magnified at this time. I certainly don't want to get into a mistrial because we have been going too long.

MR. ROBSON: May I make a suggestion, your Honor? Perhaps your Honor would caution the jurors by referring to the fact that there is a phone booth which is used by both counsel and defendants and jurors, and indicate

that it's possible that jurors may overhear comments or that comments may be made to a juror from time to time, and caution them to, one, avoid any such contact, ignore any such comment, it may not be necessary to discuss it.

MR. ANDREWS: And restaurants as well, all the places we can run into these people.

THE COURT: We have been over that. You will recall when the trial began I cautioned the jurors about talking to anybody under any circumstances, even when they got home at night.

For a juror to communicate with a defendant on trial in my view is a serious matter. You would want to pass it over lightly, but I think that in a case like this, where a juror, after having been instructed by the Court, not to talk to anyone, then talks to one of the defendants himself on trial, is a very serious matter.

That situation probably developed from the fact that I had noticed lawyers communicating with jurors by smiling. You will recall, Mr. Fischetti, I once called your attention to the fact that you were communicating with a juror by smiling at something more than once during the course of the trial. This is probably what has led to this kind of thing.

All during Mr. Stein's testimony lawyers were

sitting there smiling whenever he said something, as if to testify, defendants similarly, that he was not telling the truth.

That is testimony to the jury. But it has gone on repeatedly in this case by lawyers and defendants alike.

Mr. Feiffer more than once laughed and grinned while Stein was saying something. I never saw a lawyer even motion to his client not to do that. And that's what happened in this case. So that the juror probably felt quite at ease in communicating further with people in the trial.

Ask the juror to come in. You can all go into the courtroom for a moment.

MR. KEEGAN: If your Honor feels it is necessary to take further action, may we be heard from before you decide what action?

THE COURT: Would you bring the juror in.

(In the robing room. Juror No. 1 and the Court present.)

BY THE COURT:

Q Good morning. What is your name again?

A Carol.

Q What is your last name?

A Love.

Q Is it Miss or Mrs. Love?

A Miss.

Q Miss Love, did you meet one of the defendants at the phone booth last Friday in the hall out there?

A Mr. Haskell, yes.

Q Did he say something to you?

A He said something that this thing is going on a long time, that he spent a lot of money on his defense.

Q Did he say something about having lost $200,000?

A Yes, he did.

Q Did he say that everybody had lost money in the case--had made money in the case, rather, except him?

A I think so.

Q Did he say something about "This is like Watergate"?

A Yes, he did.

Q Did he say something about the tapes?

A I don't think so.

Q Did he say that he had learned a lot in this case?

A Something to that effect, yes.

Q Do you recall what you said to him?

A No, I don't.

Q Did you say anything at all to him?

A I chatted for a second with him.

Q Do you remember what you said?

A Not really. May have said something to the effect that it might make good material to write an article about, something like that.

Q This case?

A Yes. When it's all over.

Q Well, you will recall when the trial began, don't you, that I instructed the jurors not to discuss the case with anyone under any circumstances at any time?

A I am sorry, I didn't think it was discussing the case. I didn't mean to. I surely didn't. I know I tried to leave as quickly as I could, because I felt uncomfortable talking to him out there.

Q Have you discussed this with any other jurors? Have you told them about it?

A No.

Q The problem is, and I might as well tell you, your conversation was overheard by another U. S. attorney whose office was nearby, and that's how we happen to be here. We have had Mr. Haskell in here. For a juror to talk to somebody who is a defendant in a trial while that trial is going on, is a very serious matter.

A I am very sorry.

Q And that's why we tell jurors, and I told jurors here very plainly, not to talk about it when you went home at night because if you did that the first thing you know somebody would start telling you about something they read in the newspaper, or saw on television.

Do you remember that?

A Yes.

Q Let me ask you this. Do you think you could judge this case fairly and impartially based solely on the evidence presented without reference to that conversation?

A Of course I could.

Q You understand that his conversation was intended to exculpate him, don't you?

A Yes, I do. It was very self-serving, I understand that, and I took it as such.

Q It was intended to evoke sympathy from you, you understand that, don't you?

A Of course I do. I don't think I would let such a thing interfere with my judgment.

Q All right.

Well, please don't let it happen again, and if you see a defendant or a lawyer or anybody else in this case, you try to get out of their way, and not even say good morning or good night to them.

A You know, if there is some place else we can do telephoning from, you see this is the problem, the jurors all use that phone, and you know everybody. There is always all the lawyers always out there, and everybody is all making calls at that particular point, and half of us are without phones right now.

Q That still doesn't say you have to talk to any of them, even if you meet somebody. I have met them in the halls, I meet people in the halls all the time, but I don't have to talk to them about the case.

A I am very sorry.

Q All right. Thank you. Please don't say anything when you go in.

A No, I won't.

(Juror No. 1 left the robing room.)

THE COURT: All right. Ask the lawyers to come in now, and we will read the record to them.

(Counsel present.)

THE COURT: Mr. Reporter, do you want to read the record.

(Record read.)

THE COURT: Well, I think that in view of the juror's statement that she could decide this case fairly and impartially based solely on the evidence, notwithstand-

ing that conversation we need not declare a mistrial, but I want to say again on the record, that I think the conduct of lawyers in this case has led to a kind of disregard probably by jurors of instructions by the Court, and we have had this constant effort on the part of lawyers, who should know better, trying to communicate with jurors.

I think the time has come in this case where the Court is actually going to have to hold some lawyer or lawyers here in contempt of Court, and that applies to individuals representing themselves, who continually disobey Court orders about making remarks during their cross examinationg, arguing with the Court after the Court has ruled, and doing similar things which have occurred throughout this trial.

Because that kind of conduct by the lawyers cannot and will not be tolerated, and we have just seen what can happen as a result of lawyers who persistently disobey Court orders. Jurors get the impression that it's not a serious matter at all to disregard a Court order.

That young lady I was able to say that she remembered quite well my admonition that she should not discuss the case, but if jurors get the view that the Court is not to be taken seriously, that you can disregard Court orders, that you can openly and in the presence of the jury

express contempt for the Court, as lawyers have done here, then what we get is a breakdown in the administration of justice.

So I am saying right now that the next lawyer, or the next party, who disobeys a Court order here in the presence of the jury will be held in contempt of court, and they are going to be sentenced to prison so that that word can get around that in cases like this lawyers and parties are not to disobey Court orders, express contempt for the Court, and continually carry on in disrespect for law in a courtroom.

All right, that's all.

MR. FISCHETTI: May I have a minute to explain this to my client before we resume?

THE COURT: Explain what?

MR. FISCHETTI: Just chastise him and tell him what happened before we start.

THE COURT: I will tell you this. We are going to have a defendant in jail for contempt of Court if he does this again, and maybe a reference to the U. S. Attorney for obstruction of justice. You can tell him that.

MR.FISCHETTI: I would like to.

MR. ROBSON: For the record, may I simply state that upon review over the weekend, I have decided that I

cannot really accomplish very much in a short additional cross examination, so I am not going to cross examine Mr. Stein this morning.

THE COURT: What does that mean?

MR. ROBSON: What it means, your Honor, is that the two hours which was alloted to me, and the termination of my cross examination at that point, put me in a position I cannot adequately accomplish anything at this stage by a short additional cross examination.

THE COURT: I think that is just a statement for the record, myself. I think you have completed your cross examination, and with the others its been exhausted. You are one of the people that I am talking about, Mr. Robson, who expressed contempt for the Court when I told you to sit down. You put on a demonstration of your disgust and contempt for the Court at that point which the record doesn't show, and all you are doing now is trying to make some possible ground for your appeal.

My ruling is you don't have anything left. And that's all you are doing.

Do you have anything left, Mr. Keegan?

MR.KEEGAN: Yes, your Honor.

THE COURT: All right, we will start with you then when we get in there.

(End of robing room discussion.)

* * *

Q Prior to that time, Mr. Stein, had you extended any cooperation to the Government other than actually testifying in court?

A Yes.

Q Could you describe for the Court and jury the general nature of that cooperation?

A I had been with the Strike Force in Washington, I had been with the FBI in Washington and New York, worked with the FBI here --

MR. ROBSON: Your Honor, can he please be asked to keep his voice up?

A I was with the Strike Force in Washington --

MR. ROBSON: I keep hearing Strike Force, but what precedes that?

THE COURT: Read the answer, Mr.Reporter.

(Answere read)

THE COURT: Mr. Stein, would you please throw your voice so that every answer you make we don't have to repeat it to the lawyers over there?

THE WITNESS: Yes, your Honor.

A I worked with the Special Intelligence of the IRS here in New York, the FBI in Miami,the IBI, which is the Illinois Bureau of Investigation, in Illinois, and have conferred with them on various information that they were seeking both on an intelligence level and on the level of rendering advice on securities matters and bond matters.

Q When you say you were with the FBI here in New York, what form of cooperation is that, if you could describe it generally?

A I was in direct contact, unarmed and exposed,to recovering large amounts of stolen bonds,counterfeit dollars, various types of securities where the FBI had used me as an intended buyer,for their own purposes.

Q Who set up these arrangements, you or the FBI?

A The FBI set up all of these arrangements, and they resulted in arrests and convictions.

MR. ROBSON: Did he say they resulted in arrests and convictions?

A Yes.

Q In connection with your understanding in this case, has any Government representative made any promise to you as to what your sentence will be in this case?

A No, they have not.

Q Has any Government representative made any representation or prediction as to what your sentence will be in this case?

A No, they have not.

Q Has any Government representative told you that the United States Government or any representative of it would make a recommendation as to what sentence you should receive in this case?

A No. Although I asked for that, they said they couldn't and all they could do was make the cooperation known to the Court.

Q Has anyone told you, any Government representative at all, what to testify to in the grand jury in this case?

A No, they have not.

* * *

Q You testified in the grand jury on May 8, 1974, is that correct?

A Yes.

Q Do you recall how long you were in the grand jury?

A About 15 minutes, I think. I am not sure.

Q Do you recall the time of day it was?

A I don't know. Morning or afternoon. I am not sure. Maybe a half hour. I am not certain.

* * *

Q At that time were you asked these questions and did you give these answers, starting on page -- what was previously marked page 29, and still marked 29 in my copy.

MR. WOHL: Mr. Grimes tells me it is really 28, and I have to correct that.

Q Did the following occur:

"Did you meet Kaye personally in connection with Stern-Haskell?

"A Yes.

"Q Was that at your apartment?

"A I know he had been to my apartment but I don't know if I met him there first or I met him down at Lockwood first, but I know that Levine had introduced him to me.

"Q Did Kaye pick up some money from you in connection with Stern-Haskell?

"A Yes.

"Q I gather your recollection now is unclear whether that money was just for Kaye or whether that was money that Kaye was supposed to redistribute to Levine and Wax?

"A I am not sure what he did with it. They may all have been partners, I don't know, I wasn't there.

"Q Do you recall that Kaye was brought into the transaction by Levine, is that correct?

"A That's correct."

Were those your questions and answers at that time?

A Yes, sir.

Q Did you also answer these questions and answers on page 17, starting at line 16:

"Q In any event you had an understanding that Levine was beginning to see to it that the stock was distributed to the public, is that right?

"A That's right.

"Q And there would be payments made to Levine for the shares that he caused to be distributed to the public, is that right?

"A That's correct.

"Q Those would be shares of Stern-Haskell stock that Albert Feiffer was selling, is that right?

"A That's correct.

"Q Did Mr. Levine insist that the stock that Feiffer was selling be sold through member firms of the New York Stock Exchange?

"A That's correct.

"Q Was there an understanding that Levine would receive this -- I will withdraw that.

"Was there any understanding as to whether the price of Stern-Haskell stock was to be moved up in order

for Levine to get these payoffs?

"A Yes."

MR. ROBSON: Your Honor, at this point, I must object.

I haven't the vaguest idea what sort of procedure Mr. Wohl is following. Is he asking this witness a question?

MR. WOHL: I prefaced this by saying were these questions and answers put to you and responded in this form at the grand jury proceeding?

MR. ROBSON: Then I object to it.

MR. WOHL: I think it is proper.

MR. ROBSON: He is not trying to impeach his witness, I assume. Then it is improper. I don't know what the purpose is of reading prior testimony to a witness until you are trying to impeach him.

MR. HIGGINS: I understand Mr. Wohl is reading from something Mr. Andrews put in evidence. It now appears he is trying to put in some prior consistent statements, and that is error. That is not right. Prior consistent statements are not admissible.

MR. WOHL: I think, your Honor, that the statements made in the same subject area at the time that Mr. Andrews claims there were inconsistent statements made are

certainly admissible.

MR. ANDREWS: That is clearly erroneous. The inconsistent statements appear on the following pages, your Honor, with testimony in the grand jury which did not conform to testimony given in the Court, in my opinion, which is ultimately for the jury to decide.

What he is reading now is just parroting what was said in the courtroom and it is improper bolstering. I didn't attack him on that.

THE COURT: Is he reading what you put in evidence?

MR. ANDREWS: No, he is reading other things.

THE COURT: He is reading other statements, is that it?

MR. ANDREWS: Yes. The first portion of what he read I had put into evidence, I believe. The part he is reading now I did not ever make reference to, and I did not offer it in evidence.

THE COURT: It is the Government's statement that these readings now are consistent with the witness' testimony here?

MR. WOHL: They are consistent with the witness' testimony here, your Honor, and they are also, in my view, responsive to the inconsistencies that Mr. Andrews relies

on, showing that the witness' testimony, the inconsistencies Mr. Andrews relied on, have to be observed in the context of everything the witness said on that subject.

THE COURT: I see. All right. Proceed.

Q As far as I have read, were those the questions and answers you gave at the grand jury?

A Yes, they were.

Q And then did it continue --

"Q What was the understanding on that score?

"A Well, he really didn't know how high the stock would go, but he thought that with just a small amount of shares in the public that because of the automobile market that something -- interested brokers and through public relations, that the stock would appreciate in value based upon supply and demand, that the price would be considerably higher than it was at the time we started discussions with him.

"Actually, there wasn't really any market of any kind, so he actually created a market through a network of brokers that he knew and he thought that perhaps the stock would be worth 8, 9, $10."

MR. ANDREWS: Your Honor, the testimony was improper in the grand jury, and I object to it here and move it be stricken. It is conclusions of the operations of his

mind. Assuming, arguendo, the conversations took place, he is concluding before the grand jury what somebody else must have been thinking. That is one of the great evils that happens in the grand jury. There is not a judge to make sure the testimony that goes in would be legal. This wouldn't be admitted at a trial, and I move it be striken here now.

THE COURT: He is reading what in fact occurred, isn't that so?

MR. ANDREWS: I understand, but this certainly is not bolstering his testimony at trial because he didn't give testimony here in this courtroom about the operation, alleged operation, of Mr. Levine's mind. Here he is saying what Levine thought.

THE COURT: What do you say, Mr. Wohl?

MR. WOHL: I think in context it would appear that what Mr. Stein is saying in the Grand Jury is apparently based on his conversations with Mr. Levine. I would submit that it is part of the area that Mr. Andrews went into on his cross examination of Mr. Stein, and it is responsive to that area.

Consequently, it just establishes that Mr. Stein did tell the grand jury about the arrangement with Mr. Levine.

MR. ANDREWS: There is no doubt of it, your Honor, and I didn't seek to impeach directly what he said about these alleged meetings that all took place in four days, meetings that must of necessity have taken weeks and weeks to take place. I didn't really go into the merits of what he said. I just went into the time scheduling. I think for that purpose it is improper bolstering. This testimony is fraught with things like impressions, what somebody else was thinking. It shouldn't be read into this trial.

I know your Honor wouldn't let him so testify here in Court.

MR. WOHL: I think the point is, it seems to me, that the portions of the testimony that Mr. Andrews went into to impeach Mr. Stein's testimony seem to be directed toward the suggestion that Mr. Stein just told the grand jury about an arrangement with Mr. Kaye.

The Government is seeking to put in portions of the testimony that show that Mr. Stein laid out to the grand jury in summary fashion his arrangement with Mr. Levine and also his arrangement with Mr. Wax.

THE COURT: All right.

MR. ANDREWS: I don't suggest to this jury that Mr. Stein only told the grand jury about this alleged

arrangement with Mr. Kaye. He told in substance pretty much everything he said here in court. So I will make that representation, and there is no need to go into it to bolster what he said here in Court. I referred only to the Kaye transaction because what he told the grand jury there in my opinion was very, very different from what he told this jury here again about Mr. Wax, very different.

Again, these are isolated portions of his testimony. He gave a broad panoramic view in his testimony to the grand jury, and he did here. I concede it.

THE COURT: The point is this is an area of cross examination you went into with Mr. Stein regarding what he told the grand jury regarding Mr. Levine and Mr. Wax.

Consequently, on redirect the Government is permitted to go into that area.

Overruled.

Q Mr. Stein, I want to show you Government's Exhibit 3681, particularly page 42, and ask if it refreshes your recollection as to the time of day it was when you concluded your testimony before the grand jury.

A Yes.

Q What time was that?

A 5:30 p.m.

Q And at that time was this question and answer

asked of you:

"Is it correct to say that there are details of the activities that occurred with respect to the Stern-Haskell stock and your relationship with some of the people that we have been talking about as to which you have not been asked any questions today and as to which you have not testified?"

"THE WITNESS: Yes."

MR. ANDREWS: That is not my position here at all, that he left anything out. It is just that he told it different. That was the thrust of my examination and the thrust of the passages in evidence, and that is a question for the jury.

THE COURT: Then what is your objection?

MR. ANDREWS: That he told it differently. He didn't leave anything out. In here he specifically said, for example, "I have no way of knowing whether Walter Wax was paid."

He came to this courtroom and said "Sure I know Walter Wax was paid. He told me a number of times."

I don't say he left anything out in the grand jury, which was the thrust of that passage. What I say is he told it differently. I object to reading that last self-serving question and answer in the grand jury, the

prosecutor's catch-all that is always read to every witness who ever testifies.

MR. WOHL: I object to that. That is not always read to every witness.

MR. ANDREWS: Every time I was a prosecutor I said it, and every prosecutor I know says it, and one of the rules laid out to a green kid out of law school is to ask the witness "did you testify to everything you can remember at this time?"

So he won't look like a boob if something else is brought out in the courtroom. It is self-serving.

THE COURT: What he is bringing out is what actually transpired. It is up to the jury to determine whether there is anything inconsistent between that he said here and what he said in the grand jury.

Q Now, Mr. Stein, in connection with the Stern-Haskell transaction, you testified on cross examination by Mr. Chester that you concluded at some point that it was legal -- or that the spin off, excuse me, was legal but marginal.

Would you describe for the Court and jury what you meant by that?

MR. KEEGAN: Objection, your Honor.

MR. ANDREWS: Objection.

THE COURT: What's the objection?

MR. KEEGAN: It calls for the operation of his mind.

THE COURT: Overruled.

A Well, normally --

THE COURT: Keep your voice up, please.

A Normally, a spin out is a division of a company, a subsidiary of a company, or a phase of their business they want to separate from their regular business.

MR. FISCHETTI: I must object at this point because the beginning of his answer leads me to the conclusion he is going to give the jury and your Honor a definition of which spin outs are legal and which are illegal, or what makes a spin out legal, exactly what your Honor has been not allowing defense counsel to do from experts on the stand.

This man has pled guilty, he is a defendant on this trial. I believe it is improper for him to explain why a spin out would be legal and why a spin out would be illegal.

I say that that, from the beginning of his answer, is what his answer is going to be, and I believe it is improper.

THE COURT: Overruled.

MR. ROBSON: I further object on the ground it is not responsive. The only question put to the witness was what did he mean by the words "legal but marginal."

THE COURT: I thought that is what he was telling us.

MR. ROBSON: He is giving us a dissertation on spin offs. All he was asked was a definition of two words.

THE COURT: Go ahead.

A For example, if a company manufactures automobiles and they also make batteries, and they decide to separate the battery company from the automobile company, so that the battery company becomes a publicly owned company by itself, and the people that own the stock originally in the automobile company now become stockholders in the automobile company and in the battery company.

In this case, National Ventures was not an operating company, it just bought stock from Stern-Haskell and distributed to old stockholders in an inactive company and made Stern-Haskell an instant public company. So it was marginal, because the law wasn't clear at the time. And that is my reference to that it was legal but marginal, or possibly illegal, and that's the best explanation of that reference.

MR. KEEGAN: Your Honor, I would move to strike

"possible illegal."

He is not a lawyer. He didn't say "possible illegal" until just now in his testimony.

THE COURT: Yes, he is not a lawyer, and he is telling us what he meant by it in response to the question put to him on cross examination.

* * *

* * *

Q I am showing you Exhibit 120, which is in evidence and is a letter from Mark White dated March 16, 1969, with reference to Mobile Home Ventures, Inc.

A This is the letter I am referring to.

Q I ask you to look over that letter rather carefully and tell us if you ever saw that letter at the time of the Stern-Haskell transaction, that is, in the Spring and Summer of 1969.

(Pause.)

A Do you want me to read the full letter?

Q You can just read enough of it so that you can be sure whether or not that is in fact the letter that you saw during 1969.

A It appears to be the same. I don't know if this is a copy or the original letter that I saw, but I saw a letter that basically is this letter.

Q Did you talk that letter over with Mr. Chester at all?

A Yes.

Q When did that occur?

A I imagine sometime after he got it. I don't recall on what date.

Q Do you recall the discussion between yourself and Mr. Chester concerning that letter?

A Only that the laws were kind of hazy as to what you could do and what you couldn't do and I recall mentioning the fact that if one person owned too much stock it was the weakest thing that happened, because they would be in a control position, and I thought that the block that Feiffer had was approaching being a control block because it was such a large quantity --

MR. ROBSON: Can I have that last part again?

A I was concerned about the block Feiffer had because it was approaching --

MR. CHESTER: Judge, I want to make an objection. He is talking about Mobile Home Ventures, which was aborted, the stock was never traded, it was reversed, and he is talking about a stock that Feiffer never even owned. I think this trial is about Stern-Haskell and he has him talking about a letter on Mobile Homes and I object to this. We are talking about things which have nothing to do with the trial here.

The Mark White letter was as to the Mobile Home Ventures, which was aborted, the stock was never traded.

THE COURT: Well, I have told the jury repeatedly now, Mr. Chester, that the Covernment has introduced evidence which it claims is as to prior similar acts or contemporaneous similar acts regarding Mobile Homes and Diston Industries, which evidence is to be considered with respect to you, Mr. Rubinson, Mr. Feiffer and Mr. Reynolds, and that is what the witness is now talking about.

So your objection is overruled.

Will you read the last sentence or so, so the witness can pick up his train of thought.

(Record read.)

A That was basically the discussion, and I pointed out to him again that I thought if we were going to do anything with National Ventures, to buy a company that National Ventures would own and that the stock would trade and I told him that Mr. Levine told me that National Ventures should have a trading value and it should own an asset.

If I recall correctly, Mr. Levine told that not only to myself but also to Mr. Rubinson and Mr. Feiffer because he was concerned that National Ventures, the company that Stern-Haskell had come out of, itself didn't own anything. That is about what I recall after having received this letter.

We may have said other things, but I can't recall

them right now.

Q Did you on any other occasions have discussions concerning this concept of control blocks or control persons in connection with Stern-Haskell?

A Well, I had conversations with Mr. Chester, Mr. Feiffer and Mr. Rubinson. The only one that didn't know the amount of the block was Mr. Levine, because we never told him how many shares Mr. Feiffer had and we split the stock up into three different brokerage firms so that the brokers wouldn't be concerned that it was a controlling block.

Q When was it that you discussed this concept of a controlling block with Mr. Rubinson and Mr. Feiffer and Mr. Chester?

A I think almost from the time I found out that Feiffer was going to buy the stock of the other nominees.

Q Did this just occur in one discussion or were there several discussions?

A I think it was brought up from time to time, was talked about from time to time.

Q Can you tell us who said what, then, on the subject of this concept of control block or controlling persons?

A It was my own feeling based on my previous

experience, and I just expounded on it to everybody that was concerned. I am talking about Chester, Rubinson, Feiffer, myself, and perhaps in Silver's presence, but I can't give you the exact wordage, but I am giving you the general idea of what I felt didn't make it an absolutely proper deal. That is why I said it was borderline.

Q Tell us what was said concerning this concept of control block or controlling persons?

A I think I just described it to you. I think that is about the basic conversation I recall, other than the fact that we thought that we could get away with it and we just went ahead and did it.

Q Did Mr. Rubinson or Mr.Feiffer or Mr. Chester respond in any way to what you were saying on the subject, if you recall?

A I recall them answering me. I don't know any conversation other than the fact that this is the way it is and that is what we are going to do, it is already done, but I don't recall any specific conversation.

Q Do you recall having read to you a portion of your statement to the Court at the time you pleaded guilty on the subject of this transaction, do you recall that being read to you last week when you were being cross examined?

A Yes, but I don't know what portion, I don't

recall the wording, but I recall one of the attorneys reading it to me, yes.

MR. WOHL: Your Honor, I think it was Mr. Chester who read it.

I wonder if he recalls exactly which portion was read.

I would like to make sure of that.

THE COURT: Do you recall that, Mr. Chester?

MR. CHESTER: No, Ma'am.

Q Do you recall at that time you referred to a loophole?

A Yes.

Q Is it correct, Mr. Stein, that your entire statement at that time consited of several paragraphs, which read as follows --

MR. WOHL: Page 21 of thepr oceeding on January 9, 1975.

THE COURT: Let the jury know what the proceeding is, please.

Q Was this the proceeding at which time you pleaded guilty?

A Yes.

Q That was in this courthouse?

A Yes.

Q And it was before Judge Motley, is that correct?

A Yes, it was.

Q At that time were you asked to explain why you were pleading guilty?

A Yes.

Q Did you state as follows:

"While the sum and substance of why I am pleading

rm:mg 2 1042a Stein-redirect

guilty is that the conspiracy portion, myself and Feiffer and Rubinson and Haskell and Chester and some of the other defendants whom I know and some of whom I don't know, we all received X amount of shares of stock and I personally from my own mind did not believe that the shares were registered even though attorneys had given their opinion letters. I just thought that it was a loophole around the law and I entered into it when I shouldn't have, knowing that or believing, really, that they were not registered and I don't know if they are or not now, but I believe that they weren't and that is why I am pleading guilty to it.

"I know what the fine point of the law is but I believed it was a sham and I went along with it."

MR. FISCHETTI: Your Honor, I think Mr. Wohl left out a word, "I don't know what the fine point" --

MR.WOHL: I'm sorry.

Q "I don't know what the fine point of the law is but I believed it was a sham and I went along with it and probably the person that helped him complete the sale of stock by introducing him to the brokers that did the actual selling."

Is that what you said at that time?

A Yes.

Q Is that a truthful statement of your state of mind?

A Yes.

THE COURT: Excuse me, Mr. Wohl.

We are going to recess at this time until two o'clock for lunch.

The jury is excused.

Before the jury leaves, however, I want to request that the jurors make telephone calls during the luncheon recess and if you happen to be in the building, make those calls on the second floor where there is a telephone near the main elevators. There is only one telephone on the third floor here and the lawyers and the paties in the case have to use that.

So to avoid jurors coming in contact with anybody in the case, please us the telephone on the second floor, where the main elevators are, or on the outside during the luncheon recess only, and please do not make any calls during the morning and afternoon recess, the time is too short.

Please make your telephone calls on the lunch hour when you are out to lunch.

If you happen to be eating lunch indoors, use the telephone on the second floor.

You are excused now until two o'clock for lunch.

(The jury left the courtroom)

* * *

THE COURT: Mr. Wohl, before we actually leave, I want to go over this material which you handed up to me and which has been marked as follows:

Government Exhibit 3680-A, 3680-C, 3680-D,3680-E, 3680-F, and 3680-G.

I gather that two documents in this series have already been turned over to the defendants, is that right, Mr. Wohl?

MR. WOHL: I meant to only hand up documents which had not been turned over, your Honor.

THE COURT: I have just read those that you handed me. Out of this series, you have turned over to the defendants two, is that it?

MR. WOHL: I believe that is correct, your Honor.

THE COURT: Those numbers were 3680-H, and what was the other one, 3680-B?

MR. KEEGAN: "I".

MR. WOHL: I know 3680-H was one of them, your Honor. I will have to confer with Mr. Schatz and make sure the exact ones that were turned over.

MR. KEEGAN: I have 3680-I.

MR.WOHL: 3680-B was not turned over to the defendants, your Honor, and I had thought it was one of the ones--

THE COURT: All right, I have it here. I failed to call it out. 3680-B I have.

Which are the letters turned over?

MR.WOHL: 3680-H and 3680-I.

THE COURT: As to those I have in my hand, it is your claim that none of this material is 3500 material in that it gives the details of other transactions in which Mr. Stein was involved but about which he did not testify on his direct examination, is that it?

MR.W OHL: That is correct, your Honor.

THE COURT: May I see a copy of what was handed to the defendants at this time, H and I?

MR. WOHL: Your Honor, the two documents in this series that were turned over are 3680-H and another document which is marked Chester Exhibit H for identification.

THE COURT: Would you hand those up, please?

MR. WOHL: Yes, your Honor.

(Pause)

THE COURT: Mr. Wohl, am I correct that Government Exhibit 3680-H and Chester H are a listing of names of other stock mentioned by Mr. Stein and detailed in the exhibits

which I have?

MR.WOHL: That is correct, your Honor.

THE COURT: All right, I will return these to you, and with respect to these documents which I just enumerated, that I have in my hand, the Court Clerk is directed to seal these for purposes of appeal.

The Court rules that the defendants have been given a list of those stocks and these exhibits contain details not testified to on the direct examination of the witness.

MR. WOHL: Your Honor, just so the record is clear, I notice that the two documents I just handed up to your Honor,3680H and Chester Exhibit I are the documents in this series that were turned over to the defendants and also I notice that Exhibit 3680-I was also turned over to the defendants.

So that makes the record clear on that point.

THE COURT: Well, I don't know that I understand it now. You have an H for the Government as well as H for Mr. Chester?

MR.WOHL: Yes.

THE COURT: You changed the marking to Chester H?

MR. WOHL: That's right, your Honor.

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S I D N E Y S T E I N, resumed:

DIRECT
RE~~CROSS~~-EXAMINATION (continued)

BY MR. WOHL:

Q Mr.Stein, to begin with, I am going to ask you whether one of your answers that you gave before on cross-examination is a correct answer.

I will read you the three questions and answers from this trial that are involved. This is from page 2731 of the record,under cross-examination by Mr. Rubinson on February 26, 1973:

Do you recall being asked these questions and answers?

"Q And it is your testimony now that I wasnot your partner in 1968 and 1969 in 250 crimes, but I was your partner in one specific deal called Stern-Haskell, is that right?

"A Thatis correct.

"Q Did you offer a partnership in those crimes to me, in some of those crimes?

"A Yes.

"Q Did I accept that partnership?

"A No, you did not."

Now, are those questios and answers -- first of all, do you recall so testifying?

A Yes.

Q Now, is that last answer an accurate answer?

A Well, the answer to that is a two--

MR. CHESTER: I can't hear him.

A The answer is a two-sided answer. It is yes and no.

Did I offer him a partnership in some of those crimes? The answer is no.

I offered him a partnership--he offered me a partnership in some of the stocks that are on the list and I accepted it.

Q Were you partners with Mr. Rubinson in some of the stocks?

A That are on the list?

Q Yes.

A Yes, but the stocks that I did on my own, or companies that I underwrote on my own, were were not partners in. Many times I asked him to join me in something that I was doing, and he declined. That's the way I was answering the question. But we were partners in other stocks besides

Stern-Haskell.

Q What were those stocks?

A We were partners in Allan Electronics, we were partners in some stock of Calculator--

Q Calculator what?

A Calculator Computer Leasing Corporation.

We were partners in some stocks in David Auld which became Newport General, we were partners in some stock in General Auto Parts, and in Viking.

I think we had a joint venture in Diversified Metals. We bought some calls together. There may be a few more.

We just weren't partners in the one Stern-Haskell transaction.

MR. ANDREWS: I object to that on the ground there has been no testimony at any time at this trial that any of thes tocks named by this witness just now were criminal. I believe Mr. Rubinson's question was, were you partners with me in any of your criminal activities.

There is no indication whatever any of those stocks were anything other than legitimate business transactions.

It is calculated to mislead the jury.

MR. WOHL: I will ask him that question, your Honor.

My recollection was different.

THE COURT: All right.

Q When you referred to the list that these stocks were on, what list was it you were referring to?

A When I said I committed a crime in 250 stocks, that's an arbitrary figure, because, as I tried to explain earlier, I believe that according to the stringency of the securities laws, if you buy a stock and you tell somebody--

MR. FISCHETTI: I object and ask the wintess' answer be stricken.

The question is what list were you referring to.

THE COURT: Yes.

What list were you referring to?

A The list I gave to Mr. Doonan.

Q And this is the list that was previously shown you here, right?

A That I was questioned about.

Q That you were questioned about on cross-examination?

A Yes, sir.

Q Now, did you participate in any criminal activity in connection with the stocks that you have just named in your last answer within the last five minutes?

A Yes.

Q Would you describe for the Court and the jury what that criminal activity was?

MR. ANDREWS: I object. It is not for this witness to describe criminal activity. Let him describe activities and your Honor can charge the jury as a matter of law as to whether or not they are criminal. They are using a tactic where this fellow comes out and said I committed things which were criminal and somebody else out there did it with me.

THE COURT: I thought we spent a great deal of time on cross examination in having the witness tell us exactly what criminal activity he engaged in, going down that list.

MR. ANDREWS: Not with respect to the stocks, your Honor. I know I didn't ask him what criminal activity he engaged in in respect to stocks. My interests were other kinds of criminal activity, other kinds of deception, other things he has done.

THE COURT: In connection with stock?

MR. ANDREWS: No, your Honor, in connection with his other activities. What he is doing now is saying I dealt in all these stocks and it was criminal and other people did it with me.

THE COURT: This list that was shown to the wit-

ness, is that an exhibit?

MR. WOHL: I am not certain whether it was offered in evidence.

MR. CHESTER: It is not in evidence.

MR. WOHL: It was used to refresh his recollection.

THE COURT: The list he gave to Mr. Doonan?

MR. WOHL: That's right.

THE COURT: And that list contained the names of various stocks which he, the witness, claimed involved illegal activities, is that so?

MR. CHESTER: Judge --

THE COURT: Just a moment. Is that so?

MR. WOHL: That's correct, your Honor.

MR. CHESTER: Judge, I object on this ground, Mr. Stein said that he would list anything in the gray area, he didn't know whether it was a crime or not, but to cleanse himself, if he spit on the sidewalk he would put it down. For him now to get up here and say that all these stocks he dealt in, they were all criminal, and start saying Mr. Rubinson dealt with him --

THE COURT: He is now going to tell us which of the stocks which he just named were criminal. Is that it?

MR. WOHL: That's correct, your Honor.

THE COURT: That Mr. Rubinson was partners in with him.

MR. ANDREWS: My objection is his conclusion as to what criminality is. He should tell what acts he performed and then the Court should decide as a matter of law whether or not they were criminal. For him to brand Mr. Rubinson as a criminal because he says some conduct is criminal is improper and so prejudicial as to be wrong.

THE COURT: Is that the question, what the illegal activity was?

MR. WOHL: Yes, your Honor, that is exactly the question.

MR. KEEGAN: If the question goes to Mr. Stein's criminal activities, I have no objection, he knows what was in his mind.

If it goes to anybody else's criminal activities, he really cannot judgewhat was in their minds. So if he limits it to his own activities --

THE COURT: This is the question put to the witness by Mr. Rubinson on cross examination, isn't that so? It is an area opened up by Mr. Rubinson, putting his good conduct in issue. Isn't it?

MR. KEEGAN: Your Honor, I don't believe --

THE COURT: Isn't it?

MR. KEEGAN: I believe not, your Honor.

THE COURT: All right. Proceed, Mr. Wohl.

MR. RUBINSON: Your Honor, I would like to be heard.

THE COURT: Yes.

MR. RUBINSON: The stocks that we have been trying to introduce into this trial for somewhat of similar acts, you have ruled on numerous occasions to be kept out of their trial.

Now, it seems that Mr. Stein is going to testify to these particular stocks that you tried to keep out of this trial. You are trying to make these stocks a criminal activity. They may have been on his part, but now to introduce these stocks into this trial Iwould like to be able to go back into these stocks, show the similarity to the spin off which shows that Stern-Haskell was not a criminal activity.

THE COURT: Overruled. Proceed, Mr. Wohl.

Q Would you describe, Mr. Stein, the criminal activity which you participated in in connection with each of the stocks that you just named?

A Well, not with all of them, because Mr. Rubinson had nothing to do with the manipulation of the Viking stock, it is just that we were partners in it.

MR. ROBSON: I missed it.

THE WITNESS: I said Mr. Rubinson was not involved in the manipulation of Viking Stock. He was just partners in a block of that stock. He was partners with me in a block of that stock.

THE COURT: The question is to tell us what illegal activity was involved.

THE WITNESS: In Allen Electronics, and in Newport, or David Auld, and in Calculator Computer Leasing, and in General Auto Parts, I used nominees, I used advisory services, and I used the brokerage houses that I knew, to get their people interested in buying the stock, and those stocks were owned by third parties and we shared the profits on them.

Q Who shared the profits?

A Mr. Rubinson and myself.

Q What methods did you use to get these advisory services and other parties interested in purchasing those stocks?

A Various different methods. Sometimes the people knew me. Sometimes I gave them options, sometimes I gave them money. Sometimes I wined and dined them. Various different things to entice them to get interested in the stock.

Q Did Mr. Rubinson participate in any of that?

A He was my partner in those stocks, yes.

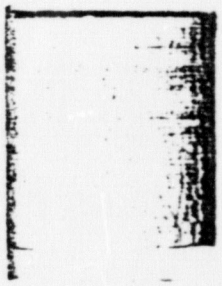
Q Well, was he your partner in that he just shared the profit or did he participate in the activity at all?

A No, I would say most of the activity was mine but he knew what I was doing and he was my partner in the stocks.

Q What makes you think he knew what you were doing?

A He was with me most of the time.

* * *



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MR. WOHL: Excuse me, your Honor, could we have a side bar at this time?

THE COURT: Yes.

(At the side bar.)

MR. WOHL: Your Honor, during the luncheon recess the defense counsel have brought to my attention that in the Government's Exhibit, which was the transcript of January 30, 1973, that there is a reference to the fact that Mr. Stein's wife was suffering from cancer at the time.

It appears to me, on the basis of my consultation with defense lawyers, that if the Government agrees to block out that line that that would significantly shorten the recross of Mr. Stein, or at least take one area out of it.

Therefore, I have agreed to do that, with the Court's permission, on page 5, line 16, all except for the word, "will", the Government would agree to be blocked out of the transcript so that that particular issue which the defense lawyers feel would be somewhat inflammatory against them will not be raised.

THE COURT: How will this shorten the recross?

MR. ANDREWS: If I can be heard, I can tell you briefly. I frankly don't think that is enough.

There was a pitch for sympathy made by this defendant before Judge Bryan's attempt to reduce sentence and that pitch was among other things the condition of his wife, she needed major medical surgery and he had great concern for her.

I think if any reference is permitted to be made to that during trial or in summation we would be prejudiced if we don't bring out that during the same period he did not tell Judge Bryan about his mistress, the way he lavished her with money, the way he spent most of his time with her

and not his wife, who was merely a tool he was using for sympathy.

All I want from the Government on that point, and I will not go into the whole mistress area at all, is a stipulation they will never use that in summation as a sympathy pitch for Mr. Stein.

I assume the rest of counsel agree. You don't delete enough here in my opinion.

THE COURT: I am not going to permit any of it to be deleted for the reason that I said. Defense counsel led the jury to believe that a Judge in this Court did something which was improper or highly questionable, and I am not going to let them believe that, so that will go in as it is.

As far as the recross is concerned, since very few areas were new on the redirect-- that is, matters not gone into on the direct and cross examination -- the recross is going to be limited to 15 minutes to each lawyer.

Now, as I see it these are areas which are new, bringing out that Stein was kept in custody in New Jersey. I believe he testified he was kept in custody here in the courthouse. That is from the affidavit of Roland, I believe.

The other area which was new, that he received

psychiatric treatment prior to 1972.

The other area which was new, this testimony relating to Rubinson being in partnership with him with respect to certain crimes.

Other than that, everything else was gone into on direct and cross examination, so those three areas only are opened on recross, and the recross is limited to 15 minutes per lawyer.

MR. GRIMES: There was one other point.

MR. ANDREWS: There was involvement with Mr. Morvillo in his attempt to get --

THE COURT: All of that was involved in his prior agreement with the Government.

MR. ANDREWS: We didn't hear of Morvillo's involvement until his redirect. He said there was an attempt to get to Mr. Peterson in Washington on redirect.

MR. ROBSON: Also, the testimony about his contact with the Federal Bureau of Investigation in Miami, Washington, the Strike Force, the Illinois Bureau of Investigation. None of that was covered on direct.

He testified on redirect that he communicated subsequent to his sentence and worked with the Federal Bureau of Investigation in New York, Miami, and Washington, that he worked with the Strike Force in New York and in Washington,

that he cooperated with the Illinois Bureau of Investigation, with the Secret Service, with the Internal Revenue Service. He was asked specifically about those and testified to his working with those groups, and I would like to find out at least what kind of work he did, how he came to do it, at whose instance he worked with them, again to show that this man's scheme was to attempt to cooperate with every Government agency he could find in order to be able to come in and say "Look, Judge, I have been cooperating with the Government, give me a light sentence", which is precisely what he did.

THE COURT: What I am getting at is on his direct examination and on his cross examination, it was gone into, his cooperation with the Government, wasn't it?

MR. ANDREWS: To a certain extent.

MR. ROBSON: I may say also it is my understanding of the law that redirect examination is permitted on any matter that was touched on in -- that recross is permitted on any matter touched on in redirect. It is not limited to areas which are new, because redirect generally is an attempt to bolster a witness who has already testified.

Redirect rarely is new information, it is just supplemental to what's already place.

THE COURT: No, it is limited to what's new

brought out for the first time on redirect.

MR. ROBSON: I respectfully disagree.

THE COURT: You can disagree. I am making the ruling. You don't have to agree or disagree with me.

MR. KEEGAN: May I say that the Court has misconstrued the reasons we delved into Judge Bryan's reduction of the sentence. We didn't mean to infer Judge Bryan did anything improper. We showed the kind of conniver Sidney Stein is. If the Court misunderstands that I am afraid the jury will misunderstand that. We want to show what lengths Sidney Stein would go to avoid an incarceration. We didn't intend to impune Judge Bryan's integrity.

THE COURT: With respect to recross, I have said it is limited to those subjects which I mentioned, plus his mentioning that he worked with other agents in trying to get his sentence reduced.

MR. KEEGAN: One other point, your Honor. You have not read the transcript --

THE COURT: That is, agents which he mentioned for the first time.

Let's proceed with the recross.

MR. KEEGAN: Could I say two sentences? If your Honor will look at the transcript which Mr. Wohl did not read in its entirety, you will see there are areas con-

cerning his wife, which is new. That is new answer before the jury though it has not been read to them yet.

THE COURT: In the transcript?

MR. KEEGAN: Yes. It is newly developed on redirect, the question of his wife's cancerous condition.

THE COURT: You can ask him about that. That's why I say it is in.

(In open court.)

THE COURT: Mr. Rubinson.

MR. RUBINSON: Your Honor, Friday afternoon I put in for identification, Mr. Stein's direct testimony on October 5, 1970.

Mr. Wohl said he would think about objecting to it or allowing it in, on Friday, and he didn't say anything and I would like to know what he wants to do about it.

THE COURT: I don't recall that, do you?

MR. WOHL: Yes, your Honor. The Government's position is that if Mr. Rubinson has any particular questions and answers that he states relate to Stern-Haskell or are inconsistent with the witness' testimony in this trial, the he can offer that.

THE COURT: And what was that trial transcript again?

MR. RUBINSON: October 5, 1970, before the Honorable Walter Mansfield in the SEC, Plaintiff, against Radio Hill Mines, Sidney Stein, and others. This is Sidney Stein's direct testimony.

THE COURT: Relating to Stern-Haskell?

MR. RUBINSON: Well, it relates to me in particular here, and I would like to read it for you.

THE COURT: Well, the whole transcript?

* * *

Q Right here, read it here, 100 share common stock--

A That doesn't mean there are a hundred shares in this corporation--

Q Let me ask the questions. I want to find how much money you stole from me. I found how much Ben Nordin did and how much every other witness did and now I am going to find out how much you took from me.

MR. WOHL: I object to this commentary by Mr. Rubinson, your Honor.

THE COURT: Mr. Rubinson, you may put questions to the witness but you may not make comments of that kind.

MR. RUBINSON: All right. Thank you.

Q We will get back to that in a minute--

THE COURT: You have three minutes left. If you want to get to it, you get to it now, Mr. Rubinson.

MR. RUBINSON: Your Honor --

THE COURT: You have three minutes left.

MR. RUBINSON: I will get to it.

Q You said that we were partners in Allen Electronics. How did Allen Electronics come out to be?

A How did it come to be?

Q Yes, a public company?

A You merged your appliance companies with a company called Aqua Filter.

Q That was not a spin off, right?

A No. It was a merger.

Q How did Calculator come to be?

A You bought a piece of property and called the corporation Calculator Computer Leasing Corp and distributed the stock to the stockholders of Allen Electronics, formerly stockholders of Aqua Filter.

Q When you testified before as part of your crimes, was distributing that stock a crime?

A No.

Q How did David Auld, that is now Newport General Corporation, how did that come to be?

A We bought a company called David Auld and distributed the stock to the stockholders of Allen, formerly the stockholders of Aqua Filter.

Q You testified that was not a crime.

A That's correct.

Q Now we come to General Auto Parts, how did that come to be?

A It was bought by Allen Electronics. I don't recall exactly how General Auto came to be, but --

Q Do you remember Calculator Computer being 200,000

shares of a stock called General Auto Parts for $23,500?

A Calculator bought it?

Q Bought 20 percent of the capitalization of General Auto Parts for 23,500 --

A I don't recall whether it was Allen or Calculator, but one of the companies bought it.

Q But there were 200,000 shares involved?

A I don't remember.

Q You testified here that that was not a crime, is that right?

A Yes.

THE COURT: Mr. Rubinson, your time is up. I have that you read from page 286, did you not, of that transcript, which would have been marked D-2.

MR. RUBINSON: I wanted to put in 299 and 300.

THE COURT: Well, let's put them in, then.

I don't believe 286 was received, was it, Mr. Clerk?

THE CLERK: D-2 I have as 296.

THE COURT: Mr. Rubinson, did you want to put in page 296?

MR. RUBINSON: Yes, 296, 297, 299, and 300.

THE COURT: Those three pages will be marked Rubinson's Exhibit D-2, 298, 299 and 300.